are not cumulative.

MR. HARMON: Thank you, your Honor.

(State's Exhibits 1-36 admitted into evidence.)

MR. HARMON: As I continue with examination of Analyst Perkins, your Honor, may we publish the photographs 1 through 36 to the jury.

THE COURT: Yes.

MR. HARMON: And will the court instruct the jurors as they view a photograph then to pass them along successively.

THE COURT: Yes.

BY MR. HARMON:

Q Analyst Perkins, when you went into the residence did you observe a victim?

A Yes, I did.

Q Were a number of photographs taken which focus upon the victim?

A Yes, there were.

Q Did you also see a possible weapon located in close proximity to the victim?

A Yes, I did.

Q What was the object that you observed?

A There was a serrated kitchen knife about

1 eight or eight and a half inches long, had about a
2 four inch wooden handle on it, about four and a half
3 inch blade. It was several feet to the east of the
4 victim's head, and it had a lot of blood -- or what
5 appeared to be blood and hair attached on the blade.
6 That was on the carpeting in the living room.
7 Q And how far away from the victim's body
8 was it approximately?
9 A Approximately four to five feet.
10 Q Was the kitchen knife measured?
11 A Yes, it was.
12 Q How long was it?
13 A I believe it was about eight and a half
14 inches.
15 Q Did that include the handle and the
16 blade?
17 A Yes, it did.
18 Q Was the width of the blade measured?
19 A I don't recall if we measured it. As I
20 recall, it was around five-eighths of an inch.
21 Q Was the knife processed for the presence
22 of latent prints?
23 A At the time that we booked it as
24 evidence, it was not processed at that point because
25 we wanted it to be submitted to the forensic lab first

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to have the blood tests on it. Most of the processes that we use for fingerprints will contaminate the blood samples that are on there.

Q In connection with the victim, did you see evidence of injury?

A Yes, I did.

Q And particularly in the area of the head and neck substantial bleeding?

A Yes, I did in other areas also.

Q And in other areas of the body?

A Yes.

Q Did you observe any blood-like substance in other parts of the trailer?

A There were areas of what appeared to be blood dripped across the living room towards the dining room area. That will be shown in the diagram probably. And there was -- there was what's called arterial spurting. It's a pattern on the side. There is a padded chair that's right next to the victim, and there are areas of blood splatter on the side of it that are consistent that would come out of a large vein or artery. And there are patterns of that on the side of that chair next to the victim.

Q Now, Analyst Perkins, the first several photographs in the series, 1 through 36, depicted a

portion of the outside of the trailer and focused on a window. Did you form any opinion regarding the point of entry of the assailant as a result of your investigation?

A Yes, I did.

Q What opinion did you form and why?

A The opinion that I formed was based on the fact that we did an inspection all the way around the mobile home, and all of the windows and doors were intact and didn't appear to be any sign of forcible entry except for one of the windows of the master bedroom, which is on the south end of the trailer, and there are two windows that face the front. They are the two windows that face the street.

I believe that they are shown in State's Exhibit Number 1, and it's the window to the west.

There were several reasons why we determined that to be the point of entry. The window screen had been at some point forcibly bent and removed from that window, and at the point that I arrived it was sitting inside the bedroom just inside that window frame. The slider to the window had been removed and it was sitting outside the window and leaning up against the south end of the trailer.

There was also a partial footwear pattern that -- where a shoe had come in contact with the window screen that was on the screen sitting inside that window.

So based on those factors and no disturbance anywhere else, we felt that that was the point of entry.

There was also -- there was one other thing. There was a small amount of damage on the latch for that window that looked like it had been forcibly opened.

Q We had evidence already introduced during the trial that there was another window where a screen was off --

A Yes.

Q -- and, in fact, was bent and was resting on the grass outside the trailer. Did you attempt to determine when and under what circumstances that screen had been removed?

A Yes, I did.

Q What did you do in connection with that phase of the investigation?

A We did two separate things. One, the neighbor to the west of the victim's residence was out in his yard, and I was in the process of processing

JChaPell-8JDC0965

that screen and that window to see if we could get any prints off of it.

The window didn't show any signs of disturbance at all. We didn't get any prints off of it, as I recall. But he stated that that screen that was bent and removed from that window had been done about a week before by one of the people that lived there. The screen that I'm describing is on the northwest bedroom. It's on the farther northwest corner of the trailer and the window faces west.

And the screen had been taken out, and it was bent and it was sitting on the ground a few feet away from the window.

Q So I take it for all of the reasons that you just described, it was your belief that the window circled in green on State's Exhibit 1 was the point of entry?

A Yes, it is.

Q You have mentioned that sketches are also prepared of the crime scene?

A Yes, they are.

Q That was done in this case?

A Yes, it was.

Q Have you in preparation to coming to court prepared an enlarged version of the sketch

prepared at the crime scene in this case?

A Yes, I have.

Q Was it drawn to scale?

A It was drawn as close as possible to scale, yes.

MR. HARMON: May we have the court's indulgence, your Honor.

THE COURT: Yes.

BY MR. HARMON:

Q Analyst Perkins, I'm showing you State's Proposed Exhibit 76. Will you able to recognize this?

A Yes, I am.

Q Is this the large diagram prepared by you for presentation in court?

A Yes, it is.

Q Does it properly portray the floor plan of Space 125 in the Ballerina Mobile Home Park?

A Yes, it does.

Q Does it accurately show the location of the victim?

A Yes, it does.

Q And also certain areas of evidence which was recovered?

A Yes, it does.

Q And does it indicate to scale?

A It indicates the approximate scale, yes.

Q And that was one half inch equals one foot.

A Correct.

Q You've also indicated a time, 8/31/95, August the 31st, 1995. And you indicate 1700 hours?

A Correct.

Q Is that military time?

A Yes, it is. That would be five in the evening.

Q What does five in the evening reflect? Is that the time of the offense or is that when you arrived?

A I arrived about seven minutes before that, and this is the time that Mark Washington the other crime scene analyst who was assisting me arrived. I use this time because that was the time he constructed the initial crime scene sketch and that was the time indicated on the sketch. So that's the time that ended up here.

Q So the five o'clock p.m. is not to reflect when the offense occurred?

A No, it is at the point that we begin our investigation.

MR. HARMON: Thank you. Your Honor, the

JChappell-8JDC0968

1 State offers Proposed Exhibit 76.

2 MR. BROOKS: No objection.

3 THE COURT: It will be received in

4 evidence.

5

6 (State's Exhibit 76
admitted into evidence.)

7

8 MR. HARMON: Your Honor, may we move it a

9 little closer to the jury.

10 THE COURT: Yes.

11 MR. HARMON: And ask the witness to step

12 to the board.

13 THE COURT: Will counsel approach the

14 bench briefly.

15

16 (At the bench discussion,
off the record.)

17

18 BY MR. HARMON:

19 Q Are all the jurors able to see the

20 diagram.

21 Analyst Perkins will you refer now to

22 exhibit --

23 MR. BROOKS: 76.

24 BY MR. HARMON:

25 Q -- 76, and please orient the court and

the jury as to what is depicted on the diagram.

A As was mentioned earlier, this is a floor plan of a double wide trailer at 839 North Lamb, Space 125 in Balerina Mobile Home Park. The date and time that we were there is indicated in the scale.

What we have here, the top of the diagram faced north. The roadway in front of this trailer is down here at the bottom so the front of the trailer faces south.

The windows that we talked about earlier in the master bedroom are indicated down here at the bottom. The one here to the west is the one that we talked about as being the point of entry.

Overall, the trailer has three bedrooms. The master bedroom that we were talking about, and then the two smaller bedrooms in the northwest corner.

This window here is where that other screen had been removed from that we were talking about earlier. There is a small hallway bath in between those two bathrooms and then the larger bathroom is off of the master.

The front entrance, or the living room entrance, is on the west side of the trailer. And that was close to where the victim was at. The only other entrance through a door to the trailer is

through the laundry room here. You have a washer and dryer. That goes into a little walkway into the kitchen and the dining room, and then there was a large family room in the northeast corner.

Q Both of the outside doors were locked?

A Yes, they were. And they were secured. They didn't show any signs of forcible entry at the time.

Q Now, you highlighted certain evidence that had potential value in the case?

A Yes, I did.

Q Explain what you found?

A The first one is kind of obvious and is a V on the legend indicating the victim. This is the position that she was in. She was on her back near the front entrance door.

The letter A here indicates the knife that I discussed, eight and a half inch kitchen knife, and that was several feet north of the victim on the carpeting.

Letter B indicates some letters and some other paperwork that was found in several areas of the master bedroom. Some of it was on a like entertainment center on this north wall, and some of it was scattered on the floor directly in front of the

entertainment center.

Q Are all of those depicted in the photographs, Proposed Exhibits 1 through 36?

A Yes, they should be.

And then the letter X in the legend is what appears to be one letter that had been torn up into small pieces. And those pieces were scattered around the victim as well as one in the doorway, and then one outside on the front porch of the residence.

And some of those had what appeared to be blood on them, and some of them did not.

Q Now, in addition to the area in close proximity to the victim where you've already described items of blood, in any other rooms of the trailer did you find the blood like substance?

A Yes, we did.

Q Where else?

A In the master bedroom -- or I'm sorry. The bathroom, over in this area, the toilet had some blood on the side of the toilet seat. And there was also a small area on the side of the basin, the sink. And I'm trying to think if there was any anywhere else.

I think that was it as far as other areas. The rest of it was confined in this living

JCheppell-8JDC0972

room area, in here.

Q I would like you to, to make sure it's clear, to write at the location of the window where you concluded entry was made point of entry, POE. We will just circle that area and then put your initials outside of the circle.

A Okay.

Q And also write where the front door is at. That's also been done in green. And you have initialed outside the circle?

A Yes, I have.

Q Thank you. You may return to the witness chair.

Analyst Perkins, did you bring certain items of evidence to court today?

A Yes, I did.

Q What did you bring to court?

A I brought the knife that we talked about earlier that was in the living room carpet and several pieces of what appeared to be that torn up letter that were in the living room and on the front porch, and then some of the pieces of paper work out of the master bedroom that were on the entertainment center and on the floor.

Q That had writing on them?

JChaPrell-8JDC0973

1 A Yes.
2 MR. HARMON: May I approach the witness,
3 Judge.
4 BY MR. HARMON:
5 Q Analyst Perkins, I'm showing you an
6 evidence bag that the clerk has marked as Proposed
7 Exhibit 68.
8 Are you able to identify it?
9 A Yes, I am.
10 Q Is this the bag into which the kitchen
11 knife was placed that was located on the floor near
12 the body and appeared to have adhering to the blade
13 the blood and hair?
14 A Yes, it is.
15 Q Will you open the bag, please, with the
16 scissors the clerk has furnished to us and then remove
17 the contents.
18 For the record, what have you removed?
19 A Inside the evidence bag is another piece
20 of brown craft paper that's folded with the initials
21 TC, I think, and the date 9/11 of '95 on it.
22 Q Would TC be consistent with criminalist
23 Terry Cook?
24 A I believe that it would, yes.
25 Q Does this paper appear to be something

which has been wrapped around the knife simply for safety purposes?

A Yes, it does. Also on the paper are the initials and personnel number of Mark Washington who impounded the item, M4725W.

Q This is Analyst Mark Washington who worked with you at the scene in carrying out the investigation?

A Yes, it is.

Q Have you located the knife?

A Yes, I have.

Q Does that appear to be the knife which you observed on the floor which had the blood like substance and hair on the blade?

A Yes, it does.

Q Does it appear to be in substantially the same condition now as it was on the date that you saw it, August 31st, 1995?

A Other than the stains, the bluish stain that you see on the handle that was used for fingerprint processing, yes, it does.

Q Is it apparent from looking at the handle of the knife that it has been processed for latent prints?

A Yes, it is.

Q What is a latent print?

A A latent print is a pattern that's transferred when your hands come in contact with another surface under some circumstances. What you've got is you have a fine ridge detail on the inner surfaces of the palm and fingers that is unique to each individual.

These ridges are made up out of rows of pores and secrete a perspiration consisting of water and fatty acids and amino acids and salt and other trace elements.

When that surface comes in contact with something else, if the conditions are right, if there is just the right amount of moisture on your hands and if there is a surface smooth enough and clean enough, that pattern will be transferred to that other surface.

So in a case like this, the handle would have been processed in the lab after the blood was collected to see if somebody's ridge detailed latent detail would be recovered from that knife blade.

Q Analyst Perkins, if a knife is handled such as the knife under consideration now, does it mean, if it is handled, that an identifiable latent print will always be deposited on either the handle or

the blade?

A Not by any means. There is so many variables like the conditions I mentioned earlier. It's more often than not that you will not recover prints from items.

MR. HARMON: Your Honor, may we have the paper that was wrapped around the knife marked as State's Proposed Exhibit 68-A, and the knife itself marked as Proposed 68-A-1.

THE COURT: Yes.

MR. HARMON: I would move at this time for the admission of 68, 68-A, and 68-A-1.

MR. BROOKS: No objection.

THE COURT: They will be admitted.

MR. HARMON: Thank you.

(State's Exhibit 68, 68-A, and 68-A-1 admitted into evidence.)

THE COURT: Are you going to open all of those and do it one at time? These are the letters. You can open them all up at once.

MR. HARMON: I'm going to do this as quickly as I can, Judge.

BY MR. HARMON:

Q I want to show you now what the clerk has

JCherrell-8JDC0977

1 marked as Proposed Exhibit 69 through 75. So it would
2 be six separate containers.
3 Are these the containers into which the
4 various papers were placed which had writing upon
5 them?
6 A Yes, they are.
7 Q I think that you said that some of these
8 it appeared had been torn up and they were located in
9 close proximity to the body?
10 A Yes.
11 Q And others were papers upon which
12 appeared writing which you found in the master
13 bedroom --
14 A Correct.
15 Q -- as depicted in the diagram?
16 A Yes.
17 Q Using the scissors the clerk has
18 furnished, will you simply go through the Proposed 60,
19 right now, through 75, cut them open. If you first
20 cut open each of the containers. Go through all of
21 the containers and cut them open first.
22 Some of the containers have a
23 biohazardous seal on them. Does that indicate that
24 possibly some type of bodily fluid was found on the
25 evidence?

JChapell-8JDC0978

A Yes, it does. Do you want the ones from the bedroom opened up at this time also?

Q Yes.

Now, so that we understand what you're in the process of doing regarding Proposed Exhibit 69 through 74, are those the papers of which appear to have been torn up and were found in the living room in fairly close proximity to the body?

A Yes, they are.

Q Will you examine as quickly as you can the contents of each of the proposed exhibits, 69 through 74, and tell us if they do truly and accurately depict to the best of your memory the pieces of paper that were located in the living room.

A In State's Proposed Exhibit 69, these are two pieces of what appear to be that letter that were found on the front porch.

Q Those are on the front porch?

A Yes.

MR. BROOKS: What were the numbers again, please.

MR. HARMON: That's 69.

MR. BROOKS: 69 is one number that was found on the front porch?

THE WITNESS: It would be the two X's in

JCharrell-8JDC0979

1 the doorway, and then outside on the front porch and
2 the dining room.
3 State's Proposed Exhibit 70 is Item 11,
4 and this was just to the north of the victim's body on
5 the living room carpet.
6 State's Proposed Exhibit 71 is another
7 piece, and this would have been just to the northeast
8 of the victim, a few feet away.
9 State's Proposed Exhibit 72 is a larger
10 piece with what appears to be blood on it.
11 Q We may be going to run out of space. Why
12 don't you just return the contents to the envelopes
13 after you've identified them.
14 A And this was about six to eight inches
15 away from the victim's head on the right side.
16 State's Proposed Exhibit 74, this is a
17 large handwritten letter, and this would have been on
18 the floor in the master bedroom. It's indicated in
19 the diagram. It's the B that is farthest to the
20 southwest in the diagram.
21 Q That was what proposed exhibit number?
22 A That would be Proposed exhibit 74.
23 Q So that also came from the master
24 bedroom?
25 A Yes, it did. The other items that I just

went over all of them were from the living room and the front porch area.

Q Meaning 69 through 73?

A Through 72, yes. And then 73, okay. That's correct. Yes, 73 is the last of the pieces of the torn up letter from the living room area.

74 is the one that we just talked about, the handwritten letter.

And 75 is four different groups of both handwritten letters and pictures. And then some paperwork, another handwritten letter. And then a rent receipt and some Sprint paging advertising that were all in the master bedroom both on the floor and on that entertainment center on the north wall.

Q Analyst Perkins, do the contents of all of these proposed exhibits, 69 through 75, appear to be in substantially the same condition now as they were on the date that they were recovered by yourself and Analyst Washington, August the 31st, 1995?

A Yes, they do.

MR. HARMON: Your Honor, the State offers Proposed Exhibits 69 through 75 and contents.

MR. BROOKS: No objection.

THE COURT: They will be admitted.

JChaPell-8JDC0981

(State's Exhibit 69 through 75 admitted into evidence.)

MR. HARMON: Thank you.

BY MR. HARMON:

Q One final area of inquiry.

I noticed in various of the photographs taken there appeared to be some dark orange cones, and also there were pieces of paper with numbers on them.

Were those placed there in connection with the investigation?

A Yes, they were.

Q What is the purpose of the cones and the numbering system?

A There is a couple purposes for that.

When using the cones when we're doing our photography and we're farther back, like across the room like you saw, and some of the small pieces of the letter they tend to disappear in the carpeting. That helps us in the photographs to show their exact location a little bit better.

And the numbers, when we write our notes and stuff at the scene that helps us keep track of what items came from where.

MR. HARMON: Thank you. Your Honor, may

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1 we have the court's indulgence.

2 THE COURT: Yes.

3 BY MR. HARMON:

4 Q How long did you remain at the crime

5 scene working with Analyst Mark Washington?

6 A We were there until about ten minutes

7 until two the next morning. So it would have been

8 about eight hours plus or minus a couple minutes. And

9 then we had additional -- the next day we had a lot of

10 laboratory work to do processing and packaging

11 evidence. So it was a longer time than that by the

12 time that we were done.

13 Q Did you observe any telephones inside the

14 trailer?

15 A Yes, I did.

16 Q How many phones, do you remember?

17 A The only one that stands out in my mind

18 was in the middle of living room floor. It was a

19 white slim line phone, and the handset was off of the

20 cradle.

21 Q So that telephone was off the hook?

22 A Yes, it was.

23 Q And that's in the same room where the

24 body was found?

25 A Yes, it was. It was more towards the

northeast corner of the room.

MR. HARMON: Thank you. That concludes direct, your Honor.

THE COURT: Cross-examination.

CROSS EXAMINATION

BY MR. BROOKS:

Q Mr. Perkins, where are the photographs that you had awhile ago?

A I believe that the jury has them at this point.

Q With the court's permission, I would like to show several of them to you and ask you several questions about them. I'm going to hand you a photograph that's marked as State's Exhibit 11.

Could you describe where that photograph is taken?

A State's Proposed Exhibit 11 is in the master bedroom indicated on the diagram. It's the bedroom at the bottom in the middle. This is showing the east wall of the bedroom. Along that wall there is a low dresser with a couple of mirrors attached to it.

Q This is the room where most of the letters were found on the floor, correct?

A Yes, it is.

Q Are the drawers in the chest of drawers pulled out or are they intact inside the drawer?

A The drawers are -- to some degree they are all pulled out in some different amounts.

Q Do you see anything that indicates the contents of the drawers have been thrown on the floor?

A Whether they would have been thrown on the floor or whether they would have already been there, I wouldn't be able to guess.

Q When you mention that these were pulled out, we are talking about like pulled out one or two inches?

A They vary between one and three and four inches, yes.

Q Are any of them completely wide open?

A No, they are not.

Q And none of them were totally pulled out of the chest?

A That's correct.

Q I'm going to hand you Photograph Exhibit 10. This is a photograph of some of the letters.

These are the letters found on the floor in that master bedroom?

A Yes, they are.

JChaparell-8JDC0985

Q I'm going to show you a photograph marked Number 5. This is also in the master bedroom?

A Yes, it is.

Q There is a roll-top desk here in this picture; is that correct?

A Yes, there is.

Q Is the roll top of the roll-top desk in place or was it bent open?

A In this particular picture, it's closed.

Q And is that the way that you found it?

A Yes, it is.

Q Are any of the drawers in the roll-top desk open or are they all closed?

A They are all closed in this exhibit.

Q There is also a small chest between the bed and roll-top desk; is that correct?

A Yes, it is.

Q And is it open or closed?

A It is closed at this point.

Q You would agree the room itself is messy, isn't it?

A Yes, I would.

Q Would you agree that Photograph 11 shows clothes stacked up which have either been washed or set out for some purpose?

1 A Yes, I would.
2 Q Okay. Thank you.
3 Did the jury need these pictures again?
4 I'm sorry. I have one last question for
5 you, sir.
6 Looking at your diagram, and correct me
7 if I'm wrong, this is the trailer, and the road that
8 you would drive up to is down here on, I believe, a
9 south end?
10 A Yes, it is. And it goes in a east to
11 west direction.
12 Q So, in other words, this is the road
13 right here inside the trailer park?
14 A Yes, it is.
15 Q And the entrance way, the point of entry
16 that's marked here on the diagram, is close to the
17 road?
18 A Yes, it is. It's about ten to 12 feet
19 from the actual roadside.
20 Q And if you can recall, are the windows
21 visible from the road? There is some vegetation but
22 the view of the window is not obscured, is it?
23 A I don't recall it being obscured. There
24 is some lower vegetation there.
25 Q It's desert vegetation?

A It's like fan palms, and I think some cactus.

MR. BROOKS: Okay. Thank you no further questions.

THE COURT: Redirect.

MR. HARMON: Just a few questions, your Honor.

REDIRECT EXAMINATION

BY MR. HARMON:

Q Do you recall if there were any vehicles in the driveway to Space 125?

A No, there were none in the driveway or carport at the time that I arrived.

Q Now, you mentioned that it appeared a number of drawers had been pulled out?

A I couldn't say that they had been pulled out. They were out at the time that I got there, yes. I wouldn't know whether they had been pulled out or not pushed in.

Q They weren't completely closed?

A Correct, most of them weren't.

Q Did you form any opinion besides concluding that perhaps in the master bedroom, for example, that it wasn't a really tidy job of

JCHaPPell-8JDC0988

housekeeping?

Did you form any opinion about whether there may have been some type of ransacking by an assailant?

A I didn't form any specific opinions. The condition of the trailer, as indicated in the photos, from one end to the other was pretty consistent all the way through.

Q But you found apparently letters or papers with writing on them strewn on the floor and also on furniture in the master bedroom?

A Yes, I did.

Q And you referred to these torn up pieces of paper with writing on them in the living room?

A Yes, I did.

Q Did you find any money inside the trailer that you recall?

A I don't recall any amounts, significant amounts.

MR. HARMON: Thank you. That's all, your Honor.

RECROSS EXAMINATION

BY MR. BROOKS:

Q And, Officer, you have no indication that

JCharrell-8JDC0989

there ever was any money in that trailer, do you?

A No, I do not.

MR. BROOKS: Thank you. No further questions.

THE COURT: May this witness be discharged?

MR. HARMON: Yes.

THE COURT: Thank you. You may step down.

Mr. Harmon, if you would be so kind, we'll continue circulating them tomorrow if the jury is not done with them.

Ladies and gentlemen, we're going to take our evening recess at this point.

During the recess, it is your duty not to converse among yourselves or with anyone else on any subject connected with this trial or read, watch or listen to any report of or commentary on this trial or any person connected with this trial by any medium of information including, without limitation, newspapers, television or radio;

And you are not to form or express an opinion on any subject connected with this case until it is finally submitted to you.

Good evening, ladies and gentlemen, we'll

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be at ease while you depart the confines of the courtroom.

We will begin at 9:30 in the morning.

We'll take care of the other matters tomorrow.

MR. BROOKS: As to that particular matter, I decided not to raise it.

(Outside the presence of the jury.)

THE COURT: Can we at this point declare the recess?

MR. HARMON: Yes.

THE COURT: All right.

* * * * * *

ATTEST: Full, true and accurate transcript of proceedings.

Marcia J. Leonard, RPR, CCR No. 204

EXHIBIT 134

JChappell-8JDC1205

TV

1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

FILED IN OPEN COURT
OCT 1 4 1996 19
LORETTA BOWMAN, CLERK
BY Deputy

ORIGINAL

3 * * * * *

4 THE STATE OF NEVADA,)
5 Plaintiff,) CASE NO. C131341
6 Vs) DEPT. NO. VII
7 JAMES MONTELL CHAPPELL,) DOCKET P
8 Defendant.)
9
10
11
12 BEFORE THE HONORABLE:
13 A. WILLIAM MAUPIN DISTRICT JUDGE
14 FRIDAY, OCTOBER 11, 1996, 9:35 A.M.
15
16 VOLUME IV - MORNING SESSION
17
APPEARANCES:
18 FOR THE STATE: MELVYN T. HARMON &
19 ABBI SILVER
Deputies District Attorney
20
21 FOR THE DEFENDANT: HOWARD S. BROOKS &
22 WILLARD N. EWING
Deputies Public Defender
23
24
25 REPORTED BY: PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

CE

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PATSY K. SMITH, OFFICIAL COURT REPORTER

1 FRIDAY, OCTOBER 11, 1996, 9:35 A.M.
2 THE COURT: Let's go on the record outside
3 the presence of the jury. The defendant is present
4 represented by his counsel.
5 MR. BROOKS: Judge, the defense would ask
6 the Court for permission to file the defendant's motion to
7 dismiss all charges based on the State's violation of the
8 equal protection clause of the 14th Amendment. I have
9 provided the State a copy of the motion and we would comply
10 with anything the Court wants regarding the State to
11 respond.
12 THE COURT: What is the nature of the
13 motion?
14 MR. BROOKS: Let me make a brief record with
15 regards to the nature.
16 THE COURT: You can file it in open court at
17 this time.
18 MR. BROOKS: Thank you, Judge.
19 What I did is I went back and went through
20 all the jury questionnaires and discovered that in our jury
21 questionnaires, we had 135 jury questionnaires and of the
22 135, 15 people identified themselves as black. Of that
23 135, we excused 66 for various reasons involving opposition
24 to the death penalty, opposition to parole, illness,
25 hardship, work or other reasons. Of the 66 that were

1 excused, 10 were black, leaving only five members on the
2 panel.
3 During the selection procedure --
4 THE COURT: Yes, although you will recall
5 that the minority jurors in the prospective panel all asked
6 to be off.
7 MR. BROOKS: That is correct.
8 THE COURT: Or indicated an opposition to
9 the death penalty.
10 MR. BROOKS: That is correct, your Honor.
11 During the selection procedure, 33 jurors
12 were never brought into the process. Of those 33, three
13 were black, leaving a total of 36 jurors who were passed
14 for cause by both parties, two of whom were black.
15 THE COURT: What do you mean 33 were never
16 brought in?
17 MR. BROOKS: Thirty three we never got to.
18 In other words, when we actually qualified --
19 THE COURT: There were 33 left.
20 MR. BROOKS: Right, there were 33 left when
21 we got to them.
22 THE COURT: I'm not sure there were that
23 many.
24 MR. BROOKS: During the exercise of the
25 peremptory challenges, the State eliminated both black

1 jurors, 493, Adrian Marshall, and 427, Olga Bourne, and the
2 State provided the Court a reason; that being that these
3 individuals were equivocal about their ability to impose
4 the death penalty. The Court accepted that as a race
5 neutral reason.
6 In going back and looking at my last death
7 penalty trial, which is the Shoels case, which occurred in
8 Department III of District Court in September of 1995,
9 that's case number C115759, we went through precisely the
10 same procedure and in that case, we qualified 32 jurors
11 that were passed for cause and of the 32 jurors, two of the
12 jurors were black and, in that case, the State also knocked
13 off both black jurors, that being juror Bobbie Walker
14 Minefee, M-I-N-E-F-E-E, badge 491 and Lisa Renee Culmer,
15 badge 492. And, once again, the State offered the precise
16 same reasons they offered in this case that these two black
17 jurors were equivocal in their support for the death
18 penalty, even though, during the examination, they
19 indicated they could impose it.
20 When we take that information, Judge, the
21 two cases, the State's behavior is the same and also
22 consider their actions in charging this case. I would like
23 to briefly mention that. The charging decision in this
24 case, I currently represent three different clients where
25 the facts are remarkably similar and in all three cases,

1 the individual stabbed someone with whom he is acquainted,
2 he stabs them anywhere from 15 to 25 times in each case,
3 and in each case he either takes the car or tries to take
4 the car afterwards.
5 In one case, where a white man kills a white
6 man, that being the cases of State of Nevada versus Michael
7 Keeves, the case negotiated to a voluntary manslaughter
8 with use of a use deadly weapon and a robbery. The State
9 did not seek the death penalty.
10 In the case of State of Nevada versus
11 Sonthraht Sengsuwan, which involved a Thai killing a Thai,
12 the State of Nevada did not seek the death penalty, but is
13 seeking a first degree murder conviction and then in this
14 case, where a black man kills a white woman and the facts
15 are almost precisely the same as the others, the State of
16 Nevada not only seeks first degree murder, they seek the
17 death penalty.
18 Our position is in light of these charging
19 decisions and what they did in the Shoels case, it appears
20 that the reasons being given by the State in their jury
21 selection, when they say they are knocking black jurors off
22 because of their equivocality regarding the death penalty,
23 we submit that's a pretext and we submit that the law under
24 Doyle, which is cited in my motion, adequately supports the
25 idea that we've established a prima facie case of

1 discrimination and, in fact, the State's reasons are
2 pretextural and, in fact, the State is practicing racial
3 discrimination in how they charge these cases.
4 MS. SILVER: Just briefly.
5 We haven't even had an opportunity to read
6 the motion, but I am offering a couple things for the
7 record right now.
8 One of the things I would like to mention is
9 I prosecuted a case, death penalty case called State of
10 Nevada versus Edward Lee Jones and in that case, it's very
11 similar to this case. He stalked his girlfriend of many --
12 I think a year. They had a abusive relationship, there was
13 a robbery involved, and I got the death penalty. The
14 victim was black, the defendant was black, and no matter
15 what color my victim or my defendant is, I think we look at
16 the facts of the case and we decide it based on each of the
17 different facts. I don't know the facts of Mr. Brooks'
18 cases, but I can tell you that Edward Lee Jones was almost
19 identical to this case and I did get the death penalty on
20 that case and that was with a black victim.
21 THE COURT: You mean the defendant got the
22 death penalty.
23 MS. SILVER: The defendant was black and his
24 girlfriend was black and I asked for the death penalty, as
25 well in that case, and it was just almost identical.

1 Be that as it may, I can't respond to cases
2 that he negotiates down to voluntary manslaughter or some
3 other charge. I wasn't the prosecutor on those cases,
4 whether they were a Thai victim. I don't know the
5 circumstances of those cases. Obviously, there are reasons
6 why we may or may not seek the death penalty and that's for
7 our panel to decide. There's a whole panel in the D.A.'s
8 Office that decides that. It's not a unilateral decision
9 by one person.
10 In any event, I did want to make a record
11 that even of the 33 jurors that was left, I would note to
12 the Court that the black individuals that were kicked from
13 the jury panel, many of them raised their hands because it
14 was a case that they did not feel comfortable being a juror
15 in. Some of them said it's because they could not give the
16 death penalty.
17 I would note to the Court, and I will
18 provide exhibits as well, that there were at least two
19 black males that stood up here and told the Court that they
20 -- that they would sit on this case. However, the only
21 two punishments they could decide was the death penalty or
22 life without, that they could not consider life with.
23 Those individuals were kicked by the defense. Those were
24 two different jurors.
25 One of the jurors I had personally on the

1 questionnaire, which I'm going to admit as an exhibit and I
2 would like to take time to research the number because one
3 of the things he said that struck me of why I wanted him as
4 a juror is he stated that his sisters were two guards at
5 the prison. One of the statements he made is, "I know what
6 really goes on in prison," and one of the things I was
7 going to follow-up with is, "Why don't you tell us what
8 prison life is really like," and enlighten the people as to
9 the fact that it's not like --
10 THE COURT: That would not have been proper
11 voir dire examination.
12 MS. SILVER: Well, in any event, we heard
13 from one white juror that said prison is like the movie
14 Serpico --
15 THE COURT: Papillon.
16 MS. SILVER: -- with Al Pacino.
17 THE COURT: Papillon.
18 MS. SILVER: I don't know where I got that.
19 THE COURT: It was with Dustin Hoffman and
20 Steve McQueen.
21 MS. SILVER: I'm wrong on all that.
22 In any event, that was a juror I was very
23 interested in having black, white, or otherwise and be that
24 as it may, no one was able to place that juror in the jury
25 panel because of his statement that he could not consider

1 all the punishments; he would only consider the death
2 penalty or life without.
3 There was another juror, a black male, and
4 I'm going to have to go back over my notes and I cannot
5 remember for the life of me what his name was or what he
6 did, but I recall him coming from where the bailiff is
7 sitting right now and he left the jury box as well because
8 he said he could only consider death or life without and so
9 I just wanted to make the representations that the only two
10 jurors that, you know, that we had struck for cause or,
11 excuse me, perempted was based on their answers and their
12 indecisive answers in this case and I think we have already
13 made a record on that.
14 THE COURT: All right, the Court is of the
15 opinion that the current method of selecting jurors is just
16 about as race neutral as it can be. The pool is comprised
17 of persons who have automobile driver's licenses. This is
18 probably as close as you can get to a demographic --
19 demographically balanced pool of prospective jurors. So,
20 in my opinion, the process itself by which we obtain a pool
21 of jurors is race neutral.
22 The instances pointed to by the Deputy
23 Public Defender representing Mr. Chappell are discrete in
24 and of themselves. The Court is familiar with one of them,
25 having taken the plea in the Keeves case, that there are

1 differing features to these cases. These are discrete
2 cases that can only at least, in terms of the predicate for
3 this motion, can be considered to be only episodic.
4 There is no question but that the victim in
5 this case is a Caucasian and the defendant in this case is
6 an African American. At this point, there is an
7 insufficient foundation laid to establish that the
8 prosecution in this case, in the jury selection, violated
9 the defendant's rights of equal protection and at this time
10 I'll ask that the jury be brought in.
11 MR. BROOKS: Thank you, Judge.
12 (Off the record discussion not reported.)
13 THE COURT: Can counsel approach the bench
14 for just a minute.
15 (Off the record discussion not reported.)
16 THE COURT: Well, we will give him 10
17 minutes and if the juror is not here, we will use an
18 alternate.
19 THE BAILIFF: He has a long beard.
20 (Off the record discussion not reported.)
21 THE COURT: We will use the 10 minute rule
22 at this point for our professor. If he's not here, we'll
23 move on with an alternate.
24
25 (Off the record at 9:55 a.m. and back on the

1 record at 10:05 a.m.)
2
3 THE COURT: Good morning, ladies and
4 gentlemen.
5 THE JURY: (In Unison) Good morning.
6 THE COURT: Counsel stipulate to the
7 presence of the jury?
8 MR. HARMON: Yes, your Honor.
9 MR. BROOKS: Defense will, your Honor.
10 THE COURT: This is the continuation of the
11 jury trial. The State may resume with its case in chief.
12 You may call your next witness.
13 MS. SILVER: Thank you, your Honor. The
14 State would call Deborah Turner.
15
16 DEBORAH TURNER,
17 having been first duly sworn to tell the truth, the whole
18 truth and nothing but the truth, testified and said as
19 follows:
20
21 MR. BROOKS: Judge, for the record, one of
22 the jurors has a question apparently.
23 A VOICE: Can we continue with the
24 pictures?
25 THE COURT: Oh, that's correct. If we can

1 continue the circulation of the photographs. The Court has
2 already made the appropriate -- in its view, the
3 appropriate rulings on their admissibility.
4 MS. SILVER: Thank you.
5
6 DIRECT EXAMINATION
7 BY MS. SILVER:
8 Q Can you please state your name and
9 spell your names, first and last, for the record.
10 A Deborah Turner. D-E-B-O-R-A-H
11 T-U-R-N-E-R.
12 Q And, Deborah, how old are you?
13 A Nineteen.
14 Q And on August 31st of 1995, did you
15 know someone by the name of James?
16 A Yes.
17 Q Do you see him here in court today?
18 A Yes, I do.
19 Q Can you please point to him and tell us
20 what he is wearing.
21 A He's wearing a suit with a yellow
22 shirt, with a tie, gray suit.
23 MS. SILVER: Your Honor, may the record
24 reflect that the witness has identified the defendant?
25 THE COURT: Yes.

1 Q (BY MS. SILVER) Did you also call him
2 Hip Hop?
3 A Yes.
4 Q Why did you call him that?
5 A Because he danced around with his
6 radio.
7 Q Where would you generally see the
8 defendant?
9 A In the apartments on Las Vegas -- I
10 mean on Lamb and Bonanza.
11 Q What's that area known as?
12 A The Rayson --
13 Q Is that a series of projects?
14 A It's a project housing.
15 Q And how long before August 31st of 1995
16 had you known him? How long before that?
17 A Approximately six to eight months.
18 Q And during that time period, how often
19 would you see him around the complex?
20 A All the time. He was there hanging out
21 most of the time.
22 Q Would it be fair to say almost
23 everyday, if not everyday?
24 MR. BROOKS: I'm going to object and move to
25 strike, your Honor. This is irrelevant testimony.

1 THE COURT: Overruled.

2 THE WITNESS: I seen him everyday that I was

3 out hanging out. He was there.

4 Q (BY MS. SILVER) Did you live in that

5 complex?

6 A At that time, yes.

7 Q Now, during that time, to your

8 knowledge, did he have a job?

9 MR. BROOKS: Objection, irrelevant.

10 THE COURT: Overruled.

11 THE WITNESS: Not to my knowledge, no.

12 Q (BY MS. SILVER) To your knowledge, did

13 he have a vehicle?

14 A No, he didn't have one personally, but

15 he was driving his girlfriend's car.

16 Q Did you ever see that girlfriend?

17 A No.

18 Q I'd like to show you what's been marked

19 for identification purposes as State's Proposed Exhibit 56

20 and ask you if this is the car you recall the defendant in

21 possession of?

22 A Yes, ma'am.

23 Q Had you ever seen his children before?

24 A Yes, on several times.

25 Q Now, on August 31st of 1995, do you

1 recall seeing the defendant?

2 A On the day?

3 Q Let me ask you this.

4 You recall one day speaking to homicide

5 detectives, correct?

6 A Oh, yes.

7 Q The evening before, do you recall

8 seeing the defendant?

9 A Oh, yes.

10 Q Was that approximately August 31st of

11 1995?

12 A It was that night.

13 Q Okay.

14 And was it dark out?

15 A It was --

16 Q When you saw the defendant -- or was it

17 light?

18 A It was dark outside.

19 Q Do you know the exact time when you

20 first saw him?

21 A No. It was just -- I just know it was

22 dark.

23 Q And did you see the vehicle that you

24 just identified in State's Proposed Exhibit No. 56? Did

25 you see it?

A Yeah, it was in the projects.
Q And where was he in connection to where the car was?
A He was in the area the last spot I seen him.
Q And what was he doing when you saw him?
A He had shrimp and pie and he was going door to door trying to sell it.
Q Did he approach you as well?
A Yes.
Q And did you buy something from him?
A I bought the shrimp and the pie and rented the car.
Q And how much did you rent the car and buy the shrimp and the pie for?
A Fifteen dollars.
Q How did he ask you -- what did he say to you before he sold these items to you?
A Well, when he approached me, he just said -- he called me -- he called me over. He know my name. He was like, "Dee Dee, come here. You want this?" I looked in the bag and told him, "Yes," but after he left and came back, he asked me about the car and I told him, "Yeah, I wanted to rent it." That's when he added on the additional $10.

1 Q Did you have to negotiate with him on a
2 price for all of those three items?
3 A To a certain extent, but he was freely
4 to let me drive the car, like no limit really. He just
5 told me --
6 Q Did he give you the keys to the car?
7 A Yes.
8 Q And did he tell you what to do with the
9 vehicle when you were done?
10 A To park it in the back by my house,
11 like in the back of the apartments.
12 Q Did he hand over the shrimp to you?
13 A Did he hand --
14 Q Did he give you the bag of shrimp?
15 A And the pie together.
16 Q With the keys?
17 A Not at the same time. When we came
18 back, he did.
19 Q And what did you give him after he gave
20 you these three items, the keys, and the shrimp, and the
21 pie?
22 A Gave him the money.
23 Q How much again was that?
24 A Fifteen dollars.
25 Q And let me ask you this. Did the

1 defendant -- how was he acting at that time?
2 A Just like he always be. Just Hip Hop.
3 He just -- like everyday, hip hop, which is dancing and
4 just doing his thing.
5 Q Did he seem sad?
6 A He didn't seem nothing. He was just
7 the normal way. He always be happy and goofing around.
8 Q So he was not sad?
9 A (Witness shook head negatively.)
10 THE REPORTER: Is that answer no?
11 Q (BY MS. SILVER) You have to say yes or
12 no.
13 A No. It wasn't no sadness. I wouldn't
14 think there was anything wrong.
15 Q He didn't seem upset?
16 A No.
17 Q You said you generally saw him dancing
18 around. Did you see him dancing around that evening, do
19 you recall?
20 A For just a little bit after he got the
21 radio out of the car. You know, his little radio. After
22 awhile, I sat out there for a little bit and he was goofing
23 around, dancing, and then we joked for a little bit and we
24 got in the car and I picked up my friend and we left.
25 Q What kind of dancing was he doing?

JChappell-8JDC1225

1 A Just break dancing, just dancing. No
2 particular dancing, just dancing.
3 Q Was anyone dancing with him?
4 A No.
5 Q And as he was dancing, did he seem
6 sad?
7 A No.
8 Q What did you do with the vehicle? What
9 did you do with the car?
10 A I picked up my friend and we drove.
11 Q Who was your friend?
12 A Ladonna Jackson. I picked her up. We
13 went driving around.
14 Q Were you driving the car?
15 A Yes.
16 Q And where was she sitting?
17 A In the passenger seat.
18 Q Where all did you go?
19 A I went over to my God mamma's house.
20 Man, we just drove around the streets and took off kind of
21 late and we came back home.
22 Q And where did you park the car?
23 A On the side of the back of my house.
24 Q And was that in a parking lot area?
25 A It was on top of grass behind the

1 building.
2 Q If you were on the street, could you
3 have seen where that car was?
4 A No.
5 Q And did you park it at the same
6 location that the defendant told you to park it in?
7 A Yes.
8 Q What did you do with the keys?
9 A Put them underneath the seat,
10 underneath the seat back or whatever that thing is.
11 Q And then you left the car?
12 A Went into my house.
13 Q Do you recall about what time this
14 was?
15 A It was like approximately like about 3
16 and 5 in the morning, but it was before the sun came up.
17 Q So that would have been 3 to 5 in the
18 morning on September 1st of 1995?
19 A Right, the next day.
20 Q Going in from the time that you --
21 A That night.
22 Q -- rented this vehicle into the early
23 morning hours?
24 A Right.
25 Q Did you ever see the defendant again

1 after that?

2 A No.

3 Q Did there come a time the next day that

4 you saw some people around that vehicle?

5 A Yeah, I was in my bed and my friend

6 told me that the police was at the car. So I came out and

7 they were fingerprinting the stuff and the car and he was

8 asking people and I didn't really want to say nothing until

9 I found out who it was. I thought I was in trouble, but --

10 Q Who was asking people things?

11 A The detectives and they told me --

12 after they told me, I mean, what he did --

13 Q Let me ask you this. Were you giving

14 the police information initially about what was going on?

15 A As far as I knew, I just told them I

16 drove the car and it was me and --

17 Q Why did you tell the police -- why did

18 you give the police information?

19 A I'm not no snitch or nothing, but I

20 mean I don't know what I'm suppose to say, but I know them

21 kids, I feel for them kids. I seen them kids in the

22 apartments and I just feel that it was wrong what he did

23 and I don't really like to snitch on nobody or nothing like

24 that, but I just feel it was wrong. Them kids -- I just --

25 I don't know.

JChappell-8JDC1228

1 Q Okay.
2 A I work way too hard for my mom and I
3 have been in the states and stuff.
4 Q Okay. Let me ask you the next
5 question.
6 Did you take -- do you recall taking a taped
7 statement from the police or a handwritten statement or did
8 they just talk to you?
9 A They -- they did -- they talked to me
10 and did a written. Wrote some of the stuff down on his pad
11 or whatever.
12 MS. SILVER: Court's indulgence.
13 Thank you. That concludes direct
14 examination.
15 THE COURT: Cross.
16
17 CROSS EXAMINATION
18 BY MR. BROOKS:
19 Q Ms. Turner, you just testified that
20 James was dancing around that evening, correct?
21 A Yes.
22 Q He was dancing around because he was
23 high on cocaine; isn't that right?
24 A I didn't see him do any cocaine.
25 Q Did he do cocaine in the projects?

1 A From what I have known, he was -- he
2 was a crack head from what I know.
3 Q He was a crack head.
4 And that's why he was selling the shrimp and
5 the car to get money for drugs?
6 A I don't know what he was doing it for.
7 Q Does that make sense, though?
8 MS. SILVER: I'm going to object as to
9 speculation.
10 THE COURT: Overruled.
11 Q (BY MR. BROOKS) You may answer the
12 question.
13 A Oh. It makes sense, but I wouldn't
14 just pinpoint it.
15 Q But you didn't see him using drugs that
16 night?
17 A I didn't see him do drugs at all that
18 night.
19 Q But you have seen him doing drugs on
20 other occasions?
21 A Have I seen him personally?
22 Q Yeah.
23 A I don't know what he done behind closed
24 doors. I have been in the same house with him, but I never
25 saw him do it.

1 Q You say he hangs out there quite often?

2 A Yes.

3 Q Did he hang out with you?

4 A No.

5 Q Who did he hang out with?

6 A His friends.

7 Q Who were his friends there?

8 A He had a friend named Bridget, CC, just

9 some other people that hanged out in the projects.

10 Q Did you ever get high with him?

11 A No.

12 Q Was that the only time you ever used

13 his girlfriend's car?

14 A No, I have used it once before.

15 Q Have you seen him with that car over

16 there many times before?

17 A I wouldn't say many times, but every so

18 often.

19 Q So he would use the car occasionally

20 and bring it over to those apartments?

21 A Yes.

22 MR. BROOKS: Thank you.

23 No further questions.

24 THE COURT: Redirect?

25 MS. SILVER: Yes.

PATSY K. SMITH, OFFICIAL COURT REPORTER

1

2 REDIRECT EXAMINATION

3 BY MS. SILVER:

4 Q Did the defendant spend the night over

5 there in the complex?

6 A Yes.

7 Q And whose apartment would he spend the

8 night at?

9 A Bridget's.

10 Q And that's a female?

11 A Yes.

12 Q Did he rent the car out to other

13 people, as well as yourself, for money?

14 A Yes. He rented it out to several

15 people in the projects.

16 Q For what does he rent it out for?

17 A For money for like an hour or two

18 hours.

19 Q Does he rent it out for other things?

20 A Like --

21 Q For rock cocaine?

22 A Yeah, he does it for that too, but I

23 mean never to another person's knowledge because everybody

24 doesn't do everything in the open, I guess, but I have

25 dealt with him on a different level.

1 MS. SILVER: Court's indulgence.

2 (Off the record discussion not reported.)

3 MS. SILVER: Thank you. That would conclude

4 my redirect.

5 MR. BROOKS: No questions, your Honor.

6 THE COURT: May this witness be discharged?

7 MS. SILVER: Yes.

8 THE COURT: Thank you, ma'am. You may step

9 down.

10 THE WITNESS: All right.

11 THE COURT: Call your next witness.

12 MS. SILVER: The next witness is Ladonna

13 Jackson.

14

15 LaDONNA JACKSON,

16 having been first duly sworn to tell the truth, the whole

17 truth and nothing but the truth, testified and said as

18 follows:

19

20 DIRECT EXAMINATION

21 BY MS. SILVER:

22 Q Can you please state your name and

23 spell it for the record.

24 A Ladonna Jackson, L-a-D-O-N-N-A

25 J-A-C-K-S-O-N.

1 Q And, Ms. Jackson, how old are you?
2 A I'm 27.
3 Q And do you have any children?
4 A Yes, I have a ten year old.
5 Q And where do you live?
6 A I live at 507 North Lamb, apartment 6.
7 Q Is that also known as the Vera Johnson
8 Housing --
9 A Yes.
10 Q -- Complex?
11 A Yes, it is.
12 Q That's here in Las Vegas, Clark County,
13 Nevada?
14 A Yes, it is.
15 Q On August 31st of 1995, did you know
16 someone by the names of James?
17 A Yes.
18 Q Do you see him here in court?
19 A Yes, I do.
20 Q Can you please point to him and
21 describe what he is wearing.
22 A The man in the gray suit with the
23 glasses.
24 MS. SILVER: Your Honor, may the record
25 reflect that the witness has identified the defendant?

1 THE COURT: Yes.

2 MS. SILVER: Thank you, your Honor.

3 Q Does he also go by the name of Hip

4 Hop?

5 A Yes.

6 Q And why is that?

7 A He listens to a lot of music and he use

8 to dance around all the time, so we gave him the name Hip

9 Hop.

10 Q When you say we gave him the name,

11 would that be fair to say the people in the complex?

12 A Everybody over in the complex.

13 Q Is he well known over there?

14 A Yes.

15 Q About when was it that you met him

16 prior to August 31st of 1996?

17 A About five or six months ahead of

18 time.

19 Q And would it be fair to say he

20 generally hung out there at the complex?

21 A Yeah, he was there day in, day out. He

22 was there.

23 Q Do you know whether or not he had a

24 job?

25 MR. BROOKS: Objection.

1 THE WITNESS: No.

2 THE COURT: The objection is overruled.

3 Q (BY MS. SILVER) He did not have a

4 job --

5 A No.

6 Q -- to your knowledge?

7 How many hours a day would you see him

8 hanging around over there?

9 A All day, just all day.

10 Q To your knowledge, did he have a car?

11 A Yes.

12 Q To your knowledge, do you know whose

13 car it was?

14 A It was his -- well, I thought she was

15 his wife. It was his girlfriend's car.

16 Q And had you ever seen this girlfriend

17 before?

18 A Yes.

19 Q I'd like to show you what's been marked

20 for purposes for identification as State's Proposed Exhibit

21 No. 56. What is this a picture of?

22 A Our apartment complex and the car

23 parked on the side of the apartment.

24 Q And, in fact, it says 507 right there

25 on the building?

1 A Right. I live in apartment 6.
2 Q And showing you what has been marked
3 for identification purposes as State's Proposed Exhibit No.
4 66, is this the woman you knew as his wife or girlfriend?
5 A Yes.
6 Q That you've just described?
7 A Yes.
8 Q About how many times prior to August
9 31st of 1995 did you see this girlfriend?
10 A It wasn't often. I seen her twice;
11 like two or three times. I never seen her as much as I did
12 him.
13 Q What was she doing when she came to the
14 complex?
15 A Once, when I was coming -- walking down
16 the sidewalk, she was telling him something about the car,
17 she was coming to get the car and I overheard them arguing
18 about the car and I kept walking. So.
19 Q And what about the other time?
20 A Another time, she was just sitting in
21 the car, her and the kids. I seen the kids in the car
22 too. They were just in the car.
23 Q About how many times had you seen his
24 children?
25 A Just twice. Once when she was with

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1 them in the car and once he came through there with the
2 kids in the car. It was the first time I had seen his
3 kids.
4 Q Do you know how many kids he had?
5 A He had two toddlers -- well, not
6 even -- like maybe four, five year old, a toddler, and a
7 new born I believe it was or they might not have even been
8 that young, but there were three kids.
9 Q You stated that the defendant was at
10 the complex all the time. Would he often spend the night
11 in the area?
12 A Yes, he spent the night over there,
13 yes.
14 Q And whose apartment would he spend the
15 night at?
16 A Bridget. This girl named Bridget.
17 Q On August 31st of 1995, did you see the
18 defendant?
19 A Yes.
20 Q And where -- what was the defendant
21 doing when you first saw him?
22 A When we first seen him, he was just
23 pulling into the complex and my sisters and I were on our
24 way from the store because there's a Lucky's right across
25 the street and we seen him pulling in and we went on to the

1 house. We spoke, he spoke, and we went onto the house.
2 Q So you actually saw him pulling up into
3 the complex?
4 A Yes.
5 Q Was he -- what kind of -- what vehicle
6 was he driving?
7 A The little bluish gray Toyota.
8 Q The same vehicle that you've just
9 described in State's Exhibit No. 56?
10 A Yes.
11 Q And when he pulled up into the complex
12 in that car and you spoke with him, how was he acting?
13 A Like James.
14 Q What do you mean like James?
15 A Hip Hop, James. Just hi, hi or what's
16 up. That's it. Just James.
17 Q Did he seem sad at all?
18 A No.
19 Q Did he seem like he had been upset
20 about anything?
21 A No, he wasn't nervous or anything. He
22 was just James like we usually see him.
23 Q Would you have ever suspected that
24 anything was wrong?
25 A Absolutely not, no.

1 Q How long would you say you talked with
2 him while you were with your sisters?
3 A We just spoke. It was not even -- you
4 know, just hi and hi and we went on to the back. Hey,
5 James. Hey. That was it.
6 Q Were there other people in the area as
7 well?
8 A No, it was me and my sisters. Like I
9 said, he had just pulled up and gotten out of the car and
10 we were walking through there.
11 Q Do you recall about what time it was
12 when you first saw him pulling up?
13 A During the evening time.
14 Q Let me ask you this.
15 A The sun was almost going down at that
16 time.
17 Q But you can't give an exact time?
18 A I don't have an exact time. I can't
19 remember, no.
20 Q Did there come a time that you met with
21 Deborah Turner?
22 A Yes.
23 Q And how did that come about?
24 A About an hour after we had saw him come
25 into the complex, about an hour later, Deborah came to the

1 back and she was like, "I got the car, come on, let's go,"
2 you know, to talk about whatever and I was like -- you
3 know, I didn't want to go and she was like, "Come on," but
4 he had given her the car to go.
5 Q And did you get into the car?
6 A Yes, I did.
7 Q And were you the driver?
8 A No.
9 Q Or passenger?
10 A I was the passenger.
11 Q Do you recall where you went that
12 evening in the vehicle?
13 A We went to Taco Bell and we just rode
14 around for a minute and then we came back to the house.
15 Q Do you remember about what time it was
16 when you came home?
17 A It was late. Maybe between 12 and 1.
18 It was late.
19 Q The early morning hours?
20 A Early morning hours, yes.
21 Q You weren't sitting there looking at
22 the time when you got home?
23 A No.
24 Q And when you came home to the complex,
25 did you or did Deborah park the vehicle?

1 A Deborah parked it. She let me out in
2 front of the door, which is right beside that window there,
3 and she told me she had to park it on the side of the
4 building and I asked her why and she said because he asked
5 her to park it, you know, I guess where nobody could see
6 it. So she parked it on the side of the building.
7 Q Did you watch her park it there?
8 A I stood outside while she parked the
9 car. I mean that building and where the car is parked,
10 there's my apartment door right there.
11 Q And I have shown you this exhibit,
12 State's Exhibit No. 56. Do you recall is that about where
13 she parked the vehicle?
14 A Yep. This is where she parked it. The
15 night we were done, this is where she parked it.
16 Q What did you do after you watched her
17 park the vehicle?
18 A We went into the house and went to
19 bed.
20 Q When you got up the next day, do you
21 recall the vehicle still being there like this?
22 A It was still there. Yes, it was still
23 there.
24 Q Would this be a fair and accurate
25 depiction of the way the vehicle looked on the date of

1 September 1st of 1995?

2 A Yes, yes, that's exactly how she parked

3 it.

4 MS. SILVER: Your Honor, at this time I

5 would move to admit State's Proposed Exhibit No. 56.

6 MR. BROOKS: No objection.

7 THE COURT: All right, same will be received

8 in evidence.

9 Q (BY MS. SILVER) Now, the next morning,

10 September 1st of 1995, did you have an occasion to see the

11 defendant again?

12 A Yeah. He was on his way to Lucky's,

13 but we had seen him before he was on his way. I seen him

14 twice. Earlier I had seen him and we were all standing out

15 and standing around. Then we seen him like about 30

16 minutes later crossing the street on his way to Lucky's.

17 We knew where he was going.

18 Q Now, let me ask you this. When you say

19 you saw him earlier that morning, how long did you talk

20 with him?

21 A We never talked to James that long.

22 Like maybe five minutes. Hey, James. Hi. That's all we

23 ever did is say hi, you know.

24 Q And when you talked with him and said

25 hello, did see seem upset at all?

1 A No.

2 Q Did he seem sad?

3 A No.

4 Q Could you tell whether or not anything

5 was wrong?

6 A No. No.

7 Q After you saw him go towards the Lucky

8 store, did you ever see him again after that?

9 A No.

10 Q Did there come a time, after you saw

11 him going towards Lucky's, that the police came to the

12 complex?

13 A About I'll say like prior to an hour

14 afterwards, a detective came and he was looking for the

15 car. So we were all standing out there; nonchalantly, we

16 don't know. We knew where the car was, but we weren't

17 saying anything.

18 Q Why weren't you saying anything when

19 the police were looking for the car?

20 A Because that's just how it is over

21 there where we live. Nobody opens their mouth about

22 anything. We said we don't know. We thought maybe

23 something was wrong or something -- maybe she had reported

24 the car stolen or something. So we were like we don't

25 know.

1 Q So you were protecting him?
2 A Protecting who?
3 Q Protecting James at the time?
4 A No. We were looking out for
5 ourselves. We weren't protecting James.
6 Q You just didn't want to get involved?
7 A No, you don't get involved with things
8 like that over there. You just don't get involved, you
9 know. We don't know where the car is and that's when he
10 told us, "Here's my card. In case someone sees the car,
11 give me a call."
12 Q What was his name?
13 A I think it was kind of like a Italian
14 name.
15 Q Was it Detective James Vaccaro?
16 A That's his name, with the mustache.
17 Q After he gave you the card, what
18 happened?
19 A He told us that he was looking for the
20 car because the guy that drives the car had just stabbed
21 his girlfriend to death and we were all like panicked. We
22 were like -- and I told him, well -- I said, "The car is
23 around the corner." I told him exactly where it was at
24 that time because that scared me and then he told us what
25 he had done and we took him straight to the car. That's

1 how he got the car.

2 MS. SILVER: Thank you.

3 That would conclude by direct examination.

4 MR. BROOKS: Thank you.

5

6 CROSS EXAMINATION

7 BY MR. BROOKS:

8 Q Ms. Jackson, I'm curious. James hung

9 around there a lot, didn't he?

10 A A lot.

11 Q And he had the car a lot there as

12 well?

13 A Pretty much. Yeah, he -- well, not all

14 the time, but the majority of the time, yes, he did have

15 the car.

16 Q Had you ever used the car before

17 yourself?

18 A Yes.

19 Q And he had rented the car out to other

20 people, didn't he?

21 A Yeah.

22 Q He used it as sort of way to make a

23 little money on the side there?

24 A Yeah, that's what he was doing.

25 Q Is it fair to say there are a lot of

1 people who hang around that place and do drugs?
2 A Yeah, it is.
3 Q Is it fair to say that there are some
4 apartments that are known as crack houses?
5 A Yes.
6 Q Is it fair to say Bridget's place was a
7 crack house?
8 A Yes.
9 Q And James use to hang out at Bridget's
10 crack house, didn't he?
11 A Yes.
12 Q James was a crack head, wasn't he?
13 A I have seen worse. I mean he's not --
14 he wasn't just totally cracked out to where he just lost
15 it, but, yeah, he was doing crack pretty bad.
16 Q He did crack there a lot, didn't he?
17 A Well, yeah, he did, but like I have
18 said, I have seen worse.
19 Q On August 31st, I may have missed this,
20 did you say you saw him actually pull up and arrive or
21 not?
22 A We seen him pull into the complex.
23 Q You saw him.
24 What time did he pull in?
25 A This was like -- I'm not sure; during

1 the early morning time. May have been the afternoon time.
2 Q You are not sure of the time?
3 A I'm not sure.
4 Q How far are you, at the Vera Johnson
5 Projects --
6 A Uh-huh.
7 Q -- Vera Johnson Projects, how far are
8 you from that Lucky's?
9 A It's like a two, three minute walk. We
10 are right across the street.
11 Q Okay.
12 A Right across the street.
13 MR. BROOKS: No further questions. Pass the
14 witness.
15 THE COURT: Redirect?
16 MS. SILVER: Yes.
17
18 REDIRECT EXAMINATION
19 BY MS. SILVER:
20 Q Defense counsel asked you whether or
21 not the defendant would rent out this car for money?
22 A Right.
23 Q A way to make a little money?
24 A Right.
25 Q What did he do with that money?

1 A Buy crack with it.
2 Q He didn't -- you never saw him buy
3 anything for his family, did you?
4 A No, no. We all knew what he wanted the
5 money for and that's the reason why he was one of the main
6 sources of getting a car when you needed a car to go do
7 anything.
8 Q What were the other ways he made his
9 money?
10 A Stealing.
11 MR. BROOKS: Objection. Move to strike.
12 THE COURT: Overruled.
13 Q (BY MS. SILVER) And what do you mean
14 by that? What was his other name in the complex?
15 A Regulator.
16 Q What does that mean, The Regulator?
17 A That when you call on the regulators
18 around there, that means they can go to the store and get
19 anything you want. Anything.
20 MR. BROOKS: Object, move to strike, your
21 Honor.
22 THE COURT: Overruled.
23 Q (BY MS. SILVER) Once they get
24 something from that store, what store are you talking
25 about?

1 A It doesn't matter, Lucky's, wherever.
2 He had transportation. He can go to different stores.
3 Q And once he got the items, what would
4 he do with them over there at the complex?
5 A Sell them. He'd sell them.
6 Q For the money for the drugs?
7 A For the money or the drugs. Both.
8 Didn't make any difference. He was trying to do both. If
9 they gave him money, he would use the money for crack. If
10 not, he would sell it to the people for crack.
11 Q And when you saw his girlfriend a
12 couple of times over there in the complex, did she seem
13 happy about the fact that he had her car?
14 A No. I mean who would be happy. No.
15 Q Why do you say that?
16 A Well, because she knew what he was
17 doing, you know. I mean everybody --
18 Q Did she need to go somewhere?
19 MR. BROOKS: Objection, speculation.
20 THE WITNESS: She had to go to work.
21 THE COURT: Overruled.
22 You have got to wait until I rule on the
23 objection.
24 THE WITNESS: Oh, I'm sorry.
25 THE COURT: That's okay.

1 THE WITNESS: Yeah.
2 Q (BY MS. SILVER) Did you hear her say
3 that?
4 A I heard her yell, like I said, when I
5 heard the earlier statement, when I saw those two there, I
6 saw her coming and retrieving the car and I heard her say
7 something about work and day car.
8 Q Taking her children to the day care?
9 A Taking her kids to the day care.
10 Q He didn't watch the children during the
11 day?
12 A He couldn't watch them over there at
13 Vera Johnson's.
14 Q This crack house of Bridget's, did you
15 ever actually see the defendant sleeping there as well?
16 A Yes.
17 Q So he didn't actually do drugs there,
18 you saw him sleep there?
19 A I saw him sleep there. I came there a
20 couple times because she also does nails and I get my nails
21 done there and he was past out on the couch.
22 Q Did you ever see him selling any of his
23 children's things?
24 MR. BROOKS: Objection. Irrelevant.
25 THE COURT: Overruled.

1 THE WITNESS: Diapers.
2 Q (BY MS. SILVER) How do you know he was
3 selling his children's diapers?
4 A Well, I'm not exactly sure, but I do
5 know he went to the car and got them. When he would steal
6 from Lucky's, he would be stealing stuff out of his
7 clothes. He got those diapers out of the car. So I
8 assumed those were probably one of his kid's diapers.
9 Q And he would sell those diapers?
10 A Yeah, he would sell them.
11 MS. SILVER: Thank you.
12 I don't have anything further.
13
14 RECROSS EXAMINATION
15 BY MR. BROOKS:
16 Q He would sell these diapers, as Ms.
17 Silver said, because he wanted drugs?
18 A Yes.
19 Q He would do all the stuff apparently to
20 get drugs?
21 A Yes.
22 Q And, as far as you can tell, his
23 girlfriend, the mother of his children, knew what was going
24 on?
25 A I'm sure she had a pretty good idea

1 about what was going on. I mean that's her kids' father.
2 Any woman would know what's going on.
3 Q And she would come over there to get
4 her car back?
5 A She would have no choice if she wanted
6 to go to work.
7 Q How long had she been coming over there
8 and get her car back?
9 A She never came over there that much.
10 Like I said, I seen her two, maybe three times like I
11 said. She never came over there that often, but he had the
12 car the majority of the time.
13 Q Okay. Thank you very much.
14 A Thank you.
15 THE COURT: May this witness be discharged?
16 MS. SILVER: Yes, your Honor.
17 THE COURT: Thank you, ma'am. You may step
18 down.
19 Call your next witness.
20 MR. HARMON: May we approach the bench?
21 THE COURT: Yes.
22 (Off the record discussion not reported.)
23 THE COURT: Ladies and gentlemen of the
24 jury, we're going to take a brief recess and take a matter
25 outside your presence. I would ask that you remain on the

1 upper deck of the courthouse immediately outside the doors
2 of the courtroom. Of course, you can use the facilities
3 during that time if you need to.
4 During this recess, it is your duty not to
5 converse among yourselves or with anyone else on any
6 subject connected with this trial or to read, watch, or
7 listen to any report of or commentary on this trial or any
8 person connected with this trial by any medium of
9 information, including, without limitation, newspapers,
10 television, or radio, and you are not to form or express an
11 opinion on any subject connected with this case until it is
12 finally submitted to you.
13 We will be at ease while you depart the
14 confines of the courtroom.
15
16 (At this time the jury left the courtroom.)
17
18 THE COURT: All right, Mr. Harmon, at this
19 time I would like to have you briefly summarize your offer
20 of proof once again so that the record will have some
21 context.
22 MR. HARMON: Thank you, your Honor.
23 The State's next three witnesses will relate
24 to the detention of the defendant, Mr. Chappell, at a
25 Lucky's Food Store at 4420 East Bonanza and it occurred on

1 September the 1st of 1995 in the early afternoon and I
2 believe that the last witness, Ladonna Jackson, previewed
3 that by mentioning that she saw the defendant headed toward
4 Lucky's.
5 The first witness worked in a security
6 capacity at Lucky's. He is Lawrence Martinez. He saw the
7 defendant pick up various items and also saw him use what I
8 believe he describes as a box cutter to remove the security
9 labels from the items he picked up. It was a bottle of
10 whiskey, a bottle of rum, a beer, and I think four candy
11 bars.
12 When the defendant attempted to leave
13 without paying, he detained him. In connection with the
14 detention, Mr. Chappell was handcuffed. Mr. Martinez
15 patted him down and in the process felt an object in his
16 right pants pocket. He asked the defendant what it was.
17 Of course, at this time Martinez and the next witness we
18 intend to call, Kimberly Sempson, S-E-M-P-S-O-N, who also
19 was employed in a security capacity at Lucky's, they don't
20 actually work out of a particular Lucky's store, but I
21 guess, for lack of a better expression, independent
22 contractors.
23 He and Ms. Sempson had no idea that this man
24 was a suspect in a murder, that they were simply carrying
25 out their security duties. Mr. Martinez asked the

1 defendant what was in his pocket and he said, "It's keys
2 and stuff." At that point, since the defendant had already
3 been handcuffed, Martinez asks for permission to go into
4 the pocket and remove the keys. He did. There were keys
5 and some miscellaneous items, but, your Honor, these are
6 keys that are later connected to the vehicle in question,
7 the Toyota Corolla, which is in the series of photographs;
8 I think it's 56 through 60, but I'm not sure. I know 56
9 came into evidence. Definitely identified as --
10 THE COURT: Well, under other circumstances,
11 would this be relevant to show probable cause for detaining
12 him and then obtaining these goods except, of course, this
13 is a private security guard, I guess?
14 MR. HARMON: That's correct, your Honor.
15 THE COURT: All right. So it wouldn't be
16 probative for that purpose?
17 MR. HARMON: It wouldn't be probative now
18 for what purpose?
19 THE COURT: Probable cause to detain him
20 since it was a private security guard.
21 MR. HARMON: Right. I don't know that it
22 is.
23 THE COURT: You have not alleged -- I'm
24 sorry, go ahead.
25 MR. HARMON: I said I don't know that that's

1 an issue in the case. It certainly hasn't been raised. So
2 I'm not suggesting that really is the basis for its
3 admissibility.
4 THE COURT: You haven't alleged felony
5 murder in this case?
6 MR. HARMON: We have alleged felony murder.
7 Yes, we have and that is the basis for the offer.
8 In addition to the keys, which were
9 eventually handed over to Detective Vaccaro, one of the
10 primary investigating officers, who then locates the
11 vehicle with the assistance of Ladonna Jackson and Deborah
12 Turner --
13 THE COURT: Well, is it also part of the
14 State's theory that this person is just on a -- almost as
15 part of his life-style is living by stealing and,
16 therefore, this shows a pattern of conduct to confirm the
17 burglary and the robbery charges?
18 MR. HARMON: That most definitely is our
19 position, your Honor. The defense, basically, opened the
20 door on the drug use. We had stayed away from that.
21 Having established now from the last two
22 witnesses that, however you wish to describe it, whether he
23 was the worst they saw or at least a crack head, he spent
24 his time over here, he either sold items or if he had
25 money, he used that to buy crack and we're arguing, since

1 we have alleged burglary and robbery the day before and, in
2 fact, felony murder in connection with this crime, that it
3 was his pattern and if he obviously had the need, the
4 intention to steal the day after, we're not talking about a
5 time where it's remote from his entry into the mobile home
6 where the murder occurred. That certainly is proof of his
7 motive and intent on August the 31st.
8 Now, we're not trying to say that petty
9 larceny at a Lucky's Store is the equivalent of murdering a
10 girlfriend, as the defense had argued earlier in these
11 proceedings, but we're saying and we understand the
12 defense's theory and if the defendant takes the witness
13 stand, he can explain in detail why he went in through a
14 window, but because he says that or is expected to say
15 that, that doesn't mean --
16 THE COURT: Well, it's been represented that
17 that's the theory of the defense or part of the theory of
18 the defense in part of the opening statement offered by the
19 defense.
20 MR. HARMON: That's true, because that's
21 their theory. It doesn't mean that it's necessarily
22 factual. Candidly, it's unlikely that Ms. Panos was even
23 there when he got there. Otherwise, it doesn't make a lot
24 of sense that he would have needed to go in through the
25 window in the manner established as the point of entry.

1 The evidence, we submit from the pattern as
2 shown and, in fact, the cavalier attitude of this
3 defendant, as described by the last two witnesses, we would
4 submit is further buttressed by his willingness to go into
5 this Lucky's Store and steal things, even candy bars.
6 That's not consistent with someone who acted on an impulse
7 and killed someone basically in a heat of passion, who
8 doesn't reflect sadness or depression or remorse on his
9 part.
10 What it reflects is someone who probably is
11 a crack head, someone who killed her because he thought she
12 was unfaithful and because of the timing in which he did it
13 in relation to his release, probably intended in the jail
14 to kill her as soon as he got out. And so when you talk
15 about pretext, it's an excuse to say that he acted in part,
16 basically, as some irresistible impulse.
17 What Kimberly Sempson --
18 THE COURT: Is the October 11, '95
19 Information the charging document in this case?
20 MR. HARMON: Yes, it is, your Honor. The
21 preliminary hearing was conducted October the 3rd.
22 THE COURT: Yes.
23 Forgive me, I may be -- at the moment, I'm
24 confused on my recollection of the case authority, but this
25 charge is open murder. It says nothing about felony

1 murder.

2 MR. HARMON: To the contrary, I think it

3 does, your Honor. Down in the body of the --

4 THE COURT: Excuse me, I'm sorry. You are

5 right.

6 MR. HARMON: -- of the complaint.

7 THE COURT: You are right. I misspoke.

8 MR. HARMON: We have pled an alternative

9 theory.

10 THE COURT: All right.

11 MR. HARMON: And it's our position that we

12 are entitled to present evidence of the --

13 THE COURT: The pattern of conduct.

14 MR. HARMON: -- the pattern of conduct and

15 the defendant's likely motive and intent on the day he

16 entered this trailer and on the day he murdered the

17 victim.

18 Now Kimberly Sempson, who was working with

19 Martinez, became involved in the detention and at some

20 point, Martinez left the room after the arrival of Officer

21 Osuch of the Las Vegas Metropolitan Police Department and,

22 at some point, Officer Osuch had also done his own pat down

23 search of the defendant, he left the room, and Sempson, who

24 stayed nearby, will testify that almost immediately, when

25 the officer left the room, the defendant still in cuffs,

his hands are behind his back, he began to fidget. She paid attention to that because, as she's explained to us, because of her job, she thought the guy was going to try to dump something. She thought he had something in his hands and so she continued to watch him and he fidgeted and then began to reach over. It appeared he was trying to put something into a cardboard box, but it was taped and so he was unable because his -- the movement of his hands was impaired and he couldn't do that and she said, "What have you got there? What are you trying to get rid of," and at that point it apparently startled the defendant a little bit and he dropped it on the floor. She retrieved it. It was a small plastic bag and she picked it up. She could see on top a social security card in the name of a female. She kept that and turned it over to Officer Osuch. In fact, the social security card is the card of Deborah Panos and underneath it were three other cards. They were the cards of the children.

That's the part of our allegation in this case that he took social security cards and the car and, in fact, his effort to secrete them is certainly proof of his consciousness of guilt and the testimony of Sempson placing this item in his possession is proof that he took it.

THE COURT: All right, I think I understand the State's theory.

1 MR. BROOKS: Judge, first of all, we very
2 much differentiate between the testimony of someone
3 regarding what happened in the office once he was in
4 custody and the testimony regarding the actual shoplifting
5 incident. The testimony of someone in the office observing
6 him is clearly admissible, but the testimony regarding the
7 actual shoplifting incident is absolutely irrelevant to
8 this case and I'm really shocked and surprised that the
9 State would try to claim that entering a Lucky's Store to
10 shoplift is evidence as intent on another day, when a
11 person enters their home to kill somebody, and that's what
12 the State is saying. What they are really doing, Judge, is
13 they are introducing this for character evidence. It's
14 outrageous they are trying to do this and it's absolutely
15 unnecessary and it's irrelevant to this case.
16 I will also add, Judge, for the record, Mr.
17 Harmon has suggested that I opened the door on this by
18 bringing in the testimony -- the evidence regarding him
19 being a -- my client being a Coke head, when the State is
20 introducing evidence that my client was dancing around on
21 the same day he killed his girlfriend. We had to explain
22 that and we had to bring in the fact that he was, in fact,
23 a crack head and was probably high at the time, but that
24 certainly does not open the door to introduce the evidence
25 of the shoplifting incident that occurred a day after the

1 murder. To suggest that the intent is the same on entering
2 a store and stealing is the same as when you enter your
3 home to kill your girlfriend is simply not true.
4 THE COURT: Well, the argument assumes that
5 the defense theory has to be accepted, which is not the
6 case, and that is the argument you are making. First,
7 since the evidence of what happened in this security room
8 has to come in, there's little likelihood of prejudice for
9 the jury to know why he was being detained in handcuffs in
10 the security area. There had to be a reason for that.
11 Second, the defense's theory of the case is
12 that the defendant was an addict and responded in a manner
13 consistent with an addict's behavior and that this was a
14 crime of passion at most deletes the need by the State to
15 attempt to rebut that theory and the allegations of
16 burglary, robbery, and felony murder all in this case are
17 based on theories consistent with a motive or a need, if
18 you will, to constantly steal to support himself or to
19 obtain narcotics and, therefore, the issues of motive and
20 pattern, modus operandi, are all there in order to
21 establish a predicate for the felony murder rule, robbery,
22 and burglary and also are relevant to address the theory of
23 the State articulated in the defense's opening statement.
24 With that, we need to bring back the jury.
25 MS. SILVER: Wait, your Honor. I had one

1 more question on something.
2 One of the things Officer Osuch recovered
3 from the defendant, once he was arrested, was a glass
4 pipe. Now I had told Officer Osuch not to present that
5 evidence because it was obviously evidence of drug use
6 because we weren't going to bring that obviously into our
7 case, but now since the defendant has raised it, all I'm
8 asking right now, if the defense isn't going to object, I
9 would prefer to just -- if they want it in, I was just
10 going to ask the officer straight out, "What items did you
11 recover," but I didn't want to hide that evidence. I've
12 already told them not to discuss it and then have the
13 defense say, "Well, isn't there one other item that, you
14 know, you recovered and isn't it a glass pipe."
15 MR. BROOKS: Under the circumstances, we
16 prefer to have the evidence brought out considering our
17 overall circumstance here.
18 THE COURT: Under the circumstances, I would
19 allow the State to bring it out anyway given the theory of
20 the defense of the case and, also, so that the State can
21 avoid the appearance of withholding evidence from the
22 jury.
23 One other matter before we bring the jury
24 back?
25 MR. BROOKS: Yes, Judge.

1 Judge, would it be possible to allow a
2 continuing objection throughout the next three witnesses to
3 anything involving the shoplifting?
4 THE COURT: Yes. You have made your record
5 on that. It's not necessary to object in front of the
6 jury. For your trial positioning, you don't need to do
7 that.
8 MR. BROOKS: Thank you, Judge.
9 THE COURT: Let's bring the jury back in.
10
11 (At this time the jury entered the
12 courtroom.)
13
14 THE COURT: The State may call its next
15 witness.
16 Counsel stipulate to the presence of the
17 jury?
18 MR. HARMON: We've got one missing, your
19 Honor.
20 THE COURT: Counsel stipulate to the
21 presence of the jury?
22 MR. HARMON: Yes, your Honor.
23 MR. BROOKS: Defense will, your Honor.
24 THE COURT: You may call your next witness.
25 MR. HARMON: Thank you.

PATSY K. SMITH, OFFICIAL COURT REPORTER

1 Lawrence Martinez.

2

3 LAWRENCE MARTINEZ,

4 having been first duly sworn to tell the truth, the whole

5 truth and nothing but the truth, testified and said as

6 follows:

7

8 DIRECT EXAMINATION

9 BY MR. HARMON:

10 Q Will you state your name, please.

11 A Lawrence Martinez.

12 Q Please spell your last name.

13 A M-A-R-T-I-N-E-Z.

14 Q Mr. Martinez, what is your business or

15 occupation?

16 A I'm a loss prevention security

17 supervisor.

18 Q You are employed with what business?

19 A Burns Incorporated.

20 Q What's the name?

21 A Burns Incorporated.

22 Q How long have you been employed with

23 Burns Incorporated?

24 A Since February of '96.

25 Q Did you work in some type of security

1 capacity prior to that?

2 A Yes, I did.

3 Q With what business?

4 A With Lucky's Store Incorporated.

5 Q What were your duties with Lucky

6 Stores?

7 A I was in the same capacity. I was a

8 loss prevention supervisor.

9 Q Did you work at a particular Lucky

10 store or did you rotate throughout?

11 A Rotated, sir.

12 Q I want to direct your attention to

13 September the 1st, 1995. On that date, were you employed

14 by Lucky's Food Stores?

15 A Yes.

16 Q In the capacity of a security officer?

17 A Yes.

18 Q On that particular day, were you

19 assigned to a Lucky's store located at 4420 East Bonanza

20 Boulevard?

21 A Yes.

22 Q Is that in Las Vegas, Nevada?

23 A Yes.

24 Q During the course of your duties that

25 day, did you have occasion to detain an individual

1 subsequently identified as James Chappell?

2 A Yes.

3 Q Do you see James Chappell in the

4 courtroom?

5 A Yes, I do.

6 Q Will you point to him and describe some

7 article of clothing he's wearing.

8 A It's the gentleman with the gray suit

9 and the glasses sitting at the defendant's table.

10 MR. HARMON: May the record show that the

11 witness has identified the defendant, James Chappell, your

12 Honor?

13 THE COURT: Yes.

14 Q (BY MR. HARMON) About what time was it

15 that you first observed the defendant, Mr. Chappell, on

16 September first, 1995?

17 A It was approximately 11 a.m.

18 Q Where was Mr. Chappell when you first

19 saw him?

20 A He was in the liquor department.

21 Q You said the liquor department?

22 A Liquor.

23 Q Of the Lucky Food Store at 4420 East

24 Bonanza Boulevard?

25 A Yes.

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * * * * * * *

JAMES MONTELL CHAPPELL, Appellant, v. WILLIAM GITTERE, et al., Respondents.	No. 77002 District Court Case No. (Death Penalty Case)

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APPELLANT'S APPENDIX

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Appeal From
Eighth Judicial District Court, Clark County
The Honorable Valerie Adair, District Judge

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Docket 77002 Document 2019-19255

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 2nd day of May, 2019. Electronic Service of the foregoing Appellant's Appendix shall be made in accordance with the Master Service List as follows:

Steve S. Owens
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/s/ Sara Jelinek
An Employee of the
Federal Public Defender
District of Nevada

1 taking two liquor bottles, a can of beer, and four candy
2 bars and he was seen by Lawrence Martinez, who was a theft
3 prevention security officer for the Lucky's --
4 THE COURT: Counsel approach the bench.
5 (Off the record discussion not reported.)
6 THE COURT: Ladies and gentlemen of the
7 jury, you are hereby admonished to disregard the evidence
8 of this event that took place the next day at the Lucky's.
9 The Court has at this point -- there will be some issues
10 regarding that evidence and the discussion of it was
11 inadvertent.
12 MS. SILVER: Yes.
13 THE COURT: And the defendant's objection is
14 noted, but you are instructed to disregard it because at
15 this point it's not been established as evidence in the
16 case.
17 Does that satisfy the parties at this
18 point?
19 MS. SILVER: Yes, your Honor.
20 MR. HARMON: Yes.
21 MR. BROOKS: Your Honor, the defense does
22 object to the comments by counsel.
23 THE COURT: All right.
24 MS. SILVER: Eventually, an officer by the
25 name of Paul Osuch arrived at the Lucky's and after making

1 contact with this defendant some time later, called Metro
2 homicide, as he believed that he had the suspect to the
3 homicide at the Ballerina Mobile Home Court in custody.
4 James Vaccaro and Phillip Ramos responded to
5 that location and there at that location, at the Lucky's,
6 they requested Crime Scene Analyst Monte Spoor to come to
7 that location to photograph some injuries to the
8 defendant's fingers and his hands and what you'll learn is
9 that the defendant had cuts on his fingers and that that's
10 not uncommon in a case where there is a stabbing because
11 sometimes, when a knife penetrates bone, the hand can slip
12 onto the blade and these injuries were documented by the
13 police and you'll see those photographs as well.
14 Turned over to Detective Vaccaro was some
15 keys and these keys were to Deborah Panos' vehicle.
16 Detective Vaccaro went out around the neighborhood to try
17 and locate that vehicle and eventually came into contact
18 with Ladonna Jackson and Deborah Turner, who at some point
19 told the detectives that the vehicle was hidden behind the
20 building and, of course, again James Vaccaro located the
21 vehicle and requested Crime Scene Analyst Washington, who
22 had been at the crime scene the day before, to go to that
23 location and that vehicle was impounded for further
24 investigation.
25 Additionally and significant, that same day,

1 September 1st of 1995, an autopsy was done on the body of
2 Deborah Panos and it was done by our chief medical examiner
3 here in the county, Dr. Sheldon Green, who's probably done
4 over 12,000 autopsies and he has been qualified as an
5 expert in forensic pathology. He conducted the autopsy in
6 the presence of Detective Vaccaro and another crime scene
7 analyst by the name of Peterson. And there Dr. Green,
8 after his examination, concluded that there were a total of
9 13 stab wounds to Deborah Panos' body, most of them --
10 about 11 of them were in the neck and chest, upper chest
11 region, and that her jugular vein had been cut and her
12 carotid arteries on both sides had been cut. They are, in
13 fact, lethal wounds.
14 Additionally, there was another stab wound
15 to Deborah's abdomen, as well as an area right above her
16 pubic bone right above her vagina.
17 Significantly again, Dr. Green noticed that
18 Deborah's -- almost her entire face and around her ears
19 were bruised and had abrasions all over them. You can see
20 gashes in her forehead in the pictures and, additionally,
21 her arms and hands were completely bruised and he concluded
22 them to be defensive wounds and there were other areas of
23 bruising and abrasions. He concluded that those bruises
24 were made on the same day of her death, recent bruises, and
25 as you will recall, Lisa had seen her that morning and she

1 wasn't in that condition.

2 The manner of death was homicide and the

3 cause of death was multiple stab wounds. A sexual assault

4 kit was also performed at this autopsy. We sometimes call

5 them rape kits as well. If she was alive, she would have

6 gone to UMC and the same type of rape kit would have been

7 done, but in this case the coroner, with the assistance of

8 the crime scene analyst, performed this task. It's

9 basically where they take, obviously, the blood of the

10 victim, they comb the pubic hairs for any foreign debris,

11 and they also swab her vagina and that kit is sent off, as

12 well as all the other evidence collected in this case.

13 It was sent to the Las Vegas Metropolitan

14 Police Department Crime Lab where initial examinations were

15 done. These examinations were done on a -- by a senior

16 criminalist by the name of Terry Cook. He is, basically,

17 up until a couple months ago, he was the only serologist

18 pretty much that did most the rapes and murders here in Las

19 Vegas or actually was the criminalist on those types of

20 cases for about the last 15 years at Metro and he will tell

21 you that he did preliminary examinations so that he could

22 then forward those results and those items for DNA

23 analysis. In fact, you will learn that we should have DNA

24 analysis available within a couple months here, but in the

25 time being, those had to be sent out.

1 His examinations, these preliminary
2 examinations concluded that the knife -- excuse me -- the
3 blood on the knife that was found by the body of Deborah
4 Panos was consistent, using the A, B, O regular types of
5 examinations that you are probably more familiar with, A,
6 B, O blood typing, that that was consistent with Deborah
7 Panos' blood. That blood found on a sink in the home was
8 also consistent with Deborah Panos' blood and that some
9 blood that was swabbed off of the trunk area or tail end of
10 the vehicle where it was found at the housing projects,
11 that blood appeared also to be blood and, finally, that the
12 semen that was found in Deborah Panos, that there was, in
13 fact, semen found in her dead lifeless body, that that was
14 consistent with this defendant's.
15 That evidence was sent to Cellmark
16 Diagnostic Laboratories. It's one of the foremost
17 laboratories here in the country and it's used routinely by
18 many, many police departments all over the United States.
19 It's very highly accredited. A molecular biologist by the
20 name of Paula Yates did the analysis, DNA analysis on those
21 items and I will not get that specific, ladies and
22 gentlemen, at this point, but you will learn some about
23 DNA, but you will learn that from her analysis -- and she
24 did two types of testing. One is called PCR testing in
25 which DNA is magnified and from there they can do

1 comparisons and another type which is called RFLP or actual
2 genetic fingerprinting. Just like a fingerprint, you can
3 leave your "fingerprint" with other items of your body,
4 bodily tissue, blood, semen, saliva, and it's a genetic
5 fingerprinting.
6 These tests were used and the results of the
7 tests were that using the PCR testing, not the genetic
8 fingerprint, but the PCR testing, that the knife handle,
9 the blood found on that knife handle was consistent with
10 the victim's blood and that the frequency of that blood
11 occurring in this world in the population was one and
12 17,000 and there was also trace -- there was some kind of
13 detection of the defendant's blood as well on the knife
14 handle.
15 As far as the kitchen or, excuse me, the
16 bathroom sink blood, the blood that had been swabbed, that
17 too was consistent with the victim's blood and the blood
18 that was swabbed from the car, that was primarily the
19 defendant's blood. Using what is called RFLP or the
20 genetic fingerprinting, she concluded that from the blood
21 of the knife itself, that was, in fact, consistent with the
22 victim's blood and the frequency of that occurring in
23 anyone else was one and 76 million and after testing the
24 semen in this case, she found that it was consistent with
25 the defendant's blood type and that the frequency of this

1 occurring was one and 14 billion.

2 Ladies and gentlemen, at the conclusion of

3 this trial, the State is going to ask you to bring back a

4 verdict which reflects all of the evidence presented in

5 this case and that is to find this defendant guilty of

6 burglary, of robbery with use of a deadly weapon, and a

7 first degree murder with use of a deadly weapon for what he

8 did to Deborah Panos on August 31st of 1995.

9 Thank you.

10 THE COURT: Thank you.

11 Mr. Brooks, are you going to do an opening

12 statement?

13 MR. BROOKS: Yes, Judge.

14 THE COURT: Any indication of how long it's

15 going to be?

16 MR. BROOKS: I think I can do it, Judge,

17 probably in 15 minutes.

18 THE COURT: All right. You may make your

19 opening statement at this time.

20 MR. BROOKS: Thank you.

21 May it please the Court, counsel, members of

22 the Court's staff, and ladies and gentlemen of the jury, we

23 have just heard Ms. Silver provide an overview of what she

24 believes the evidence in this case will show. She says the

25 evidence supports burglary, murder with use of a deadly

1 weapon, and robbery with use of a deadly weapon.
2 More specifically, they are saying that my
3 client, James Chappell, killed this woman Deborah Panos,
4 that he entered that trailer with the intent to either
5 steal or kill or rape and that he took her car and
6 ransacked the house.
7 Ladies and gentlemen, we see the evidence
8 quite differently and I believe that the evidence will show
9 that things are quite different than what you've just
10 heard, but before I summarize the evidence, let me say
11 this. The evidence in this case will show absolutely,
12 totally, and completely that my client, James Chappell,
13 takes full responsibility for the death of Deborah Panos.
14 It's not even an issue in this case. He killed the woman,
15 it was not an accident. We have stipulated to that to this
16 Court. My client will take the stand and he will tell you
17 that because, ladies and gentlemen, that is not what this
18 trial is about. This trial is not about what caused the
19 death or who caused the death of Deborah Panos. The
20 evidence will show he did it and we take full
21 responsibility for it.
22 What this case is about is what exact crime
23 occurred when he killed her. Now you have just heard one
24 version of the facts and I submit to you these facts tell a
25 very different story when viewed in a different way.

1 Here's what the evidence will really show.
2 They say a burglary of the trailer. Well,
3 ladies and gentlemen, he did enter her trailer. He was in
4 jail for three months, three months. He lived in that
5 trailer when he was not in the jail. He had lived in this
6 trailer for quite a long time. If he had a home in Las
7 Vegas, the evidence will show that trailer was his home.
8 When he got out of jail, he went home. He
9 went home to his trailer, the trailer he shared with
10 Deborah Panos. The State will say, well, it was in her
11 name, which it was. The State may say, well, she paid for
12 it. Very true, but that was his home and that's certainly
13 what he thought when he got out of jail.
14 Did he enter the trailer through the
15 window? You bet he did. He got out of jail, he went to
16 the trailer, he didn't have a key, he didn't know she was
17 at home. He entered the trailer through the window. Which
18 window he enters is extremely important in this case
19 because it is evidence of what was going on in his mind.
20 This trailer is a four sided trailer. There are three
21 sides to that trailer that would offer some protection for
22 a person committing a crime to enter. He enters the
23 trailer through the one window that is most opened, that is
24 most exposed, and that's because he was entering his home.
25 He went inside his home, ladies and gentlemen. He didn't

1 have the intent to commit any crime when he entered his
2 home and that's why there was no burglary in this case.
3 Did he commit murder in the first degree as
4 alleged by Ms. Silver? Well, here's what happened when
5 they got inside. James Chappell, when he was removing the
6 window, was met by Deborah Panos. She helped him inside
7 the trailer. She was glad to see him. They did talk
8 briefly and then after awhile they had sex. They have not
9 seen each other in three months. They have sex. It was
10 consensual sex. They had sex hundreds, perhaps thousands
11 of times before during the last 10 years. They had three
12 children together. This relationship went back a long
13 way. Ms. Silver says that, well, my client followed her
14 here and there and she would run off --
15 MS. SILVER: I'm going to object, your
16 Honor, as to argument.
17 MR. BROOKS: I'm sorry?
18 MS. SILVER: I'm going to object as
19 argument.
20 THE COURT: Sustained.
21 MS. SILVER: Thank you.
22 MR. BROOKS: The evidence will show, ladies
23 and gentlemen, that in fact my client did come to Las Vegas
24 with Deborah Panos and the evidence will also show that
25 Deborah Panos brought my client to Las Vegas. He didn't

1 follow her, as suggested by some.

2 While they were having sex, ladies and

3 gentlemen, James, who was a very jealous man and we will

4 stipulate to that. He had been jealous for years. James

5 sensed something very different about Deborah Panos. The

6 evidence will show that while they were having sex, he

7 stopped and became angry with her and accused her of seeing

8 other men. She denied it. His jealousy was fueled in part

9 by the fact that while he had been in jail, he would call

10 her, she would take his calls, and they would talk, but

11 sometimes when he would call, she would -- he would find

12 himself talking to other men who were there in the trailer

13 with his children and his girlfriend and he didn't know

14 these men. He was jealous and he wanted to know who these

15 people were. He did become angry with her. She did become

16 scared. He got up and went to the bathroom and she went in

17 the other room and called the day care center and this is

18 when she called the day care center and told them or asked

19 them about coming and picking up the kids and they had

20 their conversation.

21 Apparently, a few minutes later, this

22 evidence will show the woman called back and everything had

23 calm down. In fact, it did calm down. James wanted to get

24 a meal and Deborah offered to try to take them out to a

25 place to get something to eat, but Deborah was not sure if

1 she had the money to do that. So he decided to go pick up
2 the kids at the day care center. James left the trailer
3 and walked out to the car with Deborah. They went out to
4 the car and James got into the car and in the car he
5 started the engine. She said, "You can drive." He was
6 driving. They start driving away from the trailer and
7 James wants to find his Michael Jackson tape which was in
8 the car and he opens up the console and finds a letter from
9 another man. He stops the car, he reads the letter. The
10 letter is from someone else, not him. It implies sexual
11 things and James just goes into a complete fit of rage. He
12 stopped the car, he grabbed her, he took her back inside
13 the trailer. He doesn't remember everything he did, but we
14 know that he stabbed her over and over again. He stabbed
15 her very hard. The coroner will testify these were very,
16 very deep wounds. She died within 15 seconds of some of
17 the major wounds occurring and James cannot describe to you
18 what exactly he did. He can't remember to this day. He
19 does know he did it. He went into a fit of jealous rage
20 and he killed the woman he loved.
21 Now was that first degree murder? It's a
22 crime. He takes responsibility for it, but we submit that
23 evidence does not support first degree murder.
24 What about the robbery. The State says that
25 the trailer was ransacked. You'll see the pictures and you

1 are not going to find the pictures support that at all.
2 The trailer was not ransacked. The trailer had some messy
3 areas, which is not surprising considering the fact you had
4 a woman living there with three kids. There were clothes
5 stacked in one place either waiting to be washed or had
6 already been washed.
7 James himself took, during the first
8 argument, took his letters he had sent her from jail and
9 asked her, "Do these mean anything to you," and he threw
10 them at her and they are spread over the ground, but that's
11 not ransacking and, ladies and gentlemen, quite frankly,
12 there is no evidence of ransacking in this case and you
13 will see that when you look at the photographs.
14 Did he rob her? Well, he did take the car.
15 He took the keys to the car and he left. He didn't know
16 what to do. He just killed a person. Well, the evidence
17 in this case, ladies and gentlemen, tells this very tragic
18 and sad story, but the real question is why it happened and
19 the evidence in this case will show that this was a
20 horribly, unhappy, and tragic relationship that lasted 10
21 years. You would hear that James beat Deborah before in
22 Tucson and in Las Vegas. You will hear also that they
23 loved each other. They had three children together. They
24 had been together a long, long time. When Deborah moved to
25 Las Vegas, she's the one who brought James along. She paid

1 for him to come to Las Vegas. When Deborah was in Tucson,
2 the evidence will show James left her twice and both times
3 Deborah convinced him to return.
4 The sad facts of this case and the sad
5 evidence in this case suggest their relationship was like a
6 container containing air and gasoline. It was something
7 that was waiting to blow. Somebody needed to diffuse that
8 situation and James didn't do it and she didn't do it. All
9 that situation needed was a match, a spark, something to
10 make it blow and I submit to you that the evidence will
11 show that when he found that jealous letter or the letter
12 that got his jealousy going in the car, that was the match
13 because he will tell you all he could see, when he read
14 that letter, all he could see were images of her making
15 love with other men.
16 My client is fully responsible for this
17 crime. Absolutely, but this case is about degree of
18 responsibility. We are not asking for a break, we're
19 asking for justice and the evidence supports a voluntary
20 manslaughter with use of a deadly weapon conviction and a
21 grand larceny auto.
22 Thank you.
23 THE COURT: Thank you, Mr. Brooks.
24 Ladies and gentlemen, we will take our noon
25 recess at this time. I would remind you it is your duty

1 not to converse among yourselves or with anyone else on any
2 subject connected with this trial or to read, watch, or
3 listen to any report of or commentary on this trial or any
4 person connected with this trial by any medium of
5 information, including, without limitation, newspapers,
6 television, or radio, and you are not to form or express an
7 opinion on any subject connected with this case until it is
8 finally submitted to you.
9 We will be reconvening at 1:30. Please be
10 in the courthouse at 1:25. We will be at ease while you
11 depart the confines of the courthouse.
12 Anything further?
13 MR. BROOKS: Judge, we would like to make a
14 brief motion, please.
15
16 (At this time, the jury left the courtroom.)
17
18 THE COURT: Mr. Brooks, briefly.
19 MR. BROOKS: Judge, during the opening
20 statement, Ms. Silver argued facts or stated facts to the
21 jury which had not been admitted into evidence in which the
22 Court has not made a ruling on. Because of that, we would
23 ask for a mistrial in the case.
24 THE COURT: Motion is denied.
25 MR. BROOKS: Thank you.

PATSY K. SMITH, OFFICIAL COURT REPORTER

(Off the record at 11:52 a.m. and back on the record at 1:42 p.m.)

THE COURT: Good afternoon, ladies and gentlemen.

Counsel stipulate to the presence of the jury?

MR. HARMON: Yes, your Honor.

MR. BROOKS: Defense will, your Honor.

THE COURT: The State of Nevada may put on its case in chief. Call your first witness.

MR. HARMON: Thank you, Judge. Lisa Duran.

LISA DURAN,

having been first duly sworn to tell the truth, the whole truth and nothing but the truth, testified and said as follows:

DIRECT EXAMINATION

BY MR. HARMON:

Q Will you state your name, please?

A Lisa Duran.

Q Please spell your names for the record.

1 A D-U-R -- I'm sorry. Lisa, L-I-S-A.
2 Duran, D-U-R-A-N.
3 Q Are you married?
4 A No, sir.
5 Q Ms. Duran, how old are you?
6 A I'm 28.
7 Q How old did you say?
8 A Twenty eight.
9 Q Do you live in the Las Vegas area?
10 A Yes, sir.
11 Q How long have you lived in this
12 community?
13 A Two years.
14 Q Where did you move from?
15 A San Diego, California.
16 Q Are you employed?
17 A Yes, sir.
18 Q Where do you work?
19 A G.E. Capital.
20 Q Is that a Las Vegas business?
21 A Yes, sir.
22 Q What type of business is it?
23 A Financial collections.
24 Q How long have you been employed at G.E.
25 Capital?

1 A Two years next month.

2 Q Did you know Deborah Ann Panos?

3 A Yes, sir.

4 Q How is it that you came to know her?

5 A We met at work.

6 Q At G.E. Capital?

7 A Yes, sir.

8 Q In addition to becoming -- to being

9 co-workers, did you become friends?

10 A Yes, sir.

11 Q Did you become good friends?

12 A Yes, sir.

13 Q Was Deborah Panos married?

14 A No, sir.

15 Q Did she have children?

16 A Yes, sir.

17 Q How many children?

18 A Three.

19 Q What were the names and ages of the

20 children?

21 A JP, Anthony, and Chantell, three, five,

22 and seven.

23 Q You said JP?

24 A James Panos, yes.

25 Q And Anthony Panos?

1 A Yes, sir.

2 Q And the last child is a girl?

3 A Chantell.

4 Q Will you spell Chantell?

5 A C-H-A-N-T-E-L-L.

6 Q You said the children were age seven,

7 five, and three?

8 A Yes, sir.

9 Q Do you know how old your former

10 co-worker and friend Deborah Panos was?

11 A She was 26.

12 Q In addition to working with her and

13 being her friend, did you live, for a short period of time,

14 with Ms. Panos?

15 A Yes, sir, I did.

16 Q Where was that at?

17 A 839 East Lamb, space 125.

18 Q You said east. Could it have been

19 North Lamb?

20 A It might have been. It was a long

21 time --

22 Q But it was on Lamb Boulevard?

23 A Yes, sir.

24 Q 839 Lamb?

25 A Yes, sir.

1 Q You said what space?
2 A 125.
3 Q Was that location in Las Vegas, Clark
4 County, State of Nevada?
5 A Yes, sir.
6 Q Have you at any time had contact with
7 the defendant in this action, James Chappell?
8 A Yes, sir.
9 Q Do you know Mr. Chappell?
10 A Yes, sir.
11 Q How is it that you know him?
12 A From Debbie. She introduced him to
13 me.
14 Q To your knowledge, did Mr. Chappell and
15 Debbie Panos have a relationship?
16 A Yes, sir.
17 Q What was the relationship?
18 A From what I understood from Debbie, it
19 was ex-girlfriend and ex-boyfriend.
20 Q Do you see in court today the
21 individual that you knew as a former boyfriend of Deborah
22 Ann Panos?
23 A Yes, sir, I do.
24 Q Would you point to him and describe
25 some article of clothing he's wearing in court?

1 A He's sitting right there in the middle
2 of the two gentlemen. He has on a gray coat and glasses.
3 MR. HARMON: Your Honor, may the record show
4 that the witness has described and identified the
5 defendant, Mr. Chappell?
6 THE COURT: Yes.
7 MR. HARMON: Thank you.
8 Q Ms. Duran, was there an occasion
9 shortly before Christmas, 1994, when you saw some type of
10 disturbance in the area of the place where you work, G.E.
11 Capital, which involved Deborah Panos and the defendant,
12 Mr. Chappell?
13 A Yes, sir, I did.
14 Q When do you remember the incident
15 occurring?
16 A It was late afternoon and I was getting
17 ready to leave for work and I was standing between the two
18 doorways that went into our office.
19 Q Are you able to give us any frame of
20 reference regarding the date or approximate date?
21 A No, sir.
22 Q Was it close to a holiday?
23 A Yes, sir. It was in the month of
24 December.
25 Q Do you remember when it was in relation

1 to the Christmas holiday?

2 A About two weeks, maybe three.

3 Q About two to three weeks, what, before

4 Christmas?

5 A Before Christmas, yes, sir.

6 Q You said it was in the late afternoon?

7 A Yes, sir.

8 Q I think you indicated it was in front

9 of the business?

10 A Yes, sir.

11 Q Where were you at the time you saw what

12 was happening?

13 A As I said before, I was standing --

14 there were two doorways. There was one door and then there

15 was like a little hallway and then there was another door

16 that led into the building and I was standing in between

17 both of them and I was getting ready to go home.

18 Q What did you see at that time?

19 A At that time, I saw -- I looked out

20 into the parking lot and I noticed that Debbie and James

21 were sitting in an automobile and it looked as though she

22 was crying and there was an argument and then next thing I

23 knew, he had slapped her and she got out of the car and

24 came into work.

25 Q Could you see where it was he slapped

her?

A It was in the face.

Q Do you remember what part of the face?

A Just one of -- one of her cheeks.

Q You say one of her cheeks. You indicated on your head the left side, but are you saying you don't know if it was the left or right side?

A It might have been the left side. It was so long ago.

Q You have described it as a slap. Was Deborah hit with the hand opened?

A Yes, sir.

Q Could you, by gesture from the witness stand, indicate what it was that you saw happen at the time this slap occurred?

A Just that he looked at her and he had his hand like this and it was across the face.

Q Were they sitting next to each other inside the car at the time?

A Yes, yes, sir.

Q When you have referred to he, are you talking about the defendant, Mr. Chappell, who hit Deborah Panos?

A Yes, sir.

Q Did she ever talk to you about the

1 incident?

2 A She did.

3 Q At that time, without going into what

4 she said, did you learn any more details about what the

5 circumstances were?

6 A No, sir.

7 Q Do you know if there was any type of

8 formal report made by Deborah Panos to the police in

9 connection with the incident you have just described?

10 A No, sir.

11 Q There was not?

12 A No, sir.

13 Q Was there an occasion, also somewhere

14 around Christmas or perhaps even somewhat after Christmas

15 of 1994, that you became aware Deborah Panos suffered an

16 injury to her nose?

17 A Yes, sir.

18 Q What happened to her nose?

19 A It was broken.

20 Q Did you see it bandaged?

21 A Yes, sir.

22 Q When did you see it bandaged?

23 A The day after it happened, she came

24 into work.

25 Q Did you determine at that time whether

she had suffered the broken nose accidentally?

A No, sir.

Q You did or didn't?

A I did not.

Q Now, you've mentioned that there was a time when you lived with Ms. Panos?

A Yes, sir.

Q And that was at 839 Lamb, space 125?

A Yes, sir.

Q Can you tell us approximately what time frame that was?

A It was about a week.

Q Had you intended to stay longer with her?

A Yes, I did.

Q Do you remember when it was that you first met the defendant, Mr. Chappell?

A It was Memorial Day Weekend.

Q Of 1995?

A Yes, sir.

Q Do you remember where you were when you met him?

A At Deborah's home.

Q Where was she living at that time?

A At 839 Lamb, number 125.

1 Q Did you exchange any words with the
2 defendant that Memorial Day Weekend when you met him?
3 A No, sir.
4 Q Did you hear him say anything?
5 A Yes, sir.
6 Q Who was he speaking to when you heard
7 him talk?
8 A To Deborah.
9 Q Do you remember how his voice sounded?
10 A Yes, sir.
11 Q After the Memorial Day Weekend, did you
12 talk with the defendant a number of times on the
13 telephone?
14 A Yes, sir, I did.
15 Q Over what approximate time span?
16 A Two months.
17 Q During an approximately two month
18 period, after the Memorial Day Weekend, 1995, approximately
19 how many times did you speak over the telephone with the
20 defendant?
21 A About seven.
22 Q Did you know who you were talking to?
23 A Yes, sir.
24 Q How did you know who it was?
25 A I recognized the voice every time.

1 Q Is there any doubt in your mind that
2 you were speaking with the defendant, Mr. Chappell?
3 A No, sir.
4 Q How did it happen that you talked with
5 him on about seven occasions?
6 A Some of the occasions occurred when he
7 would call the trailer and ask to speak with her. There
8 were a couple of occasions when he called my apartment.
9 Q When you say some of the times he would
10 call the trailer and ask to speak with her, are you talking
11 about the trailer with Deborah lived?
12 A Yes, sir.
13 Q 839 Lamb Boulevard?
14 A Yes, sir.
15 Q But you said he would also call an
16 apartment where you were living?
17 A Yes, sir.
18 Q When he would call you at your
19 apartment, was he looking for someone?
20 A He was looking for Deborah.
21 Q How many times, during the two month
22 span, did you actually talk with the defendant over the
23 telephone?
24 A Five times.
25 Q Five times?

1 A Uh-huh.

2 Q Did he leave messages on other

3 occasions?

4 A Yes, sir.

5 Q On how many occasions?

6 A Twice.

7 Q During the five conversations over the

8 telephone where you actually talked to Mr. Chappell, did he

9 ever say anything of a nature threatening to Deborah

10 Panos?

11 A Yes, sir.

12 Q Are you able to identify which

13 particular telephone conversations it was?

14 A There was one particular phone

15 conversation. I was alone with the children at the trailer

16 one night and he had called.

17 Q About what time at night was the call?

18 A Before 8:00.

19 Q Do you know at the time of this call

20 whether the defendant was in custody?

21 A Yes, sir.

22 Q He was in custody?

23 A Yes, sir.

24 Q And you say it was somewhere around

25 8:00 in the evening?

1 A Before 8:00, yes, sir.

2 Q What do you remember about that

3 particular conversation?

4 A The conversation, he asked where

5 Deborah was and I told him that she had gone out and he

6 asked where his children were and I told him that his

7 children were with me and that's when he made the comment

8 to me that he wanted to know what other nigger she was

9 laying up underneath and I told him that that was none of

10 my business to tell him and he said, "Well, what kind of

11 friend are you," and I said, "The kind of friend who minds

12 her own business," and he told me, "Well, you tell Debbie

13 that I called and that when I get out of here, she's not

14 going to have any friends, she's not going to have any

15 life, and that includes you."

16 Q If you were to give a very best

17 estimate regarding the date of that telephone conversation,

18 what would you tell us?

19 A It was about a month before she died.

20 Q So you are saying, perhaps, some time

21 in late July?

22 A Uh-huh.

23 Q 1995?

24 A Yes, sir.

25 Q Were there other telephone

1 conversations that you had with the defendant during the
2 approximately two month time frame after Memorial Day
3 Weekend, 1995 where other threatening words were used by
4 Mr. Chappell?
5 A Yes, sir.
6 Q Tell us what you remember.
7 A That he would sit there and talk about
8 how he was upset that she hadn't been answering his phone
9 calls and she hadn't been writing him and he was upset that
10 she hadn't brought the children to see him.
11 Q To see him in jail?
12 A Yes, sir.
13 Q Or to write him while he was in
14 custody?
15 A Yes, sir.
16 Q What else did he say?
17 A He just told me that he was angry and
18 that when he got out, she wasn't going to have any friends
19 and that if he couldn't have her, nobody could.
20 Q What was your reaction when the
21 defendant would say this?
22 A I would just get angry and I would tell
23 him, "I'm not going to talk to you any more," and I would
24 hang up.
25 Q When Mr. Chappell would complain during

1 the conversations about her not visiting him, not writing
2 him letters, was it simply on one occasion or various times
3 that he was angry with her?
4 A It was various times that he was
5 angry.
6 Q I want to direct your attention now to
7 August the 31st, 1995. On that date, to your knowledge,
8 was the defendant, Mr. Chappell, still in jail?
9 A Yes, sir.
10 Q Did you go to work that morning, August
11 the 31st?
12 A Yes, sir.
13 MR. BROOKS: I'm going to object for lack of
14 foundation as to her knowledge of him being in jail.
15 MR. HARMON: I said her knowledge, your
16 Honor. I'm really trying to get simply her state of mind.
17 THE COURT: The objection is overruled in
18 any case.
19 Q (BY MR. HARMON) You were still working
20 at G.E. Capital?
21 A Yes, sir.
22 Q Do you remember what time you went to
23 work?
24 A It was about 8:00 in the morning.
25 Q Did you see your friend and co-worker

1 Deborah Panos at work?

2 A Yes, sir. She came in about an hour

3 after I did.

4 Q So perhaps 9:00 in the morning?

5 A Is when I saw her, yeah.

6 Q How long did you stay at work that

7 day?

8 A From 8 to 1.

9 Q Was that a regular shift for you?

10 A No, sir.

11 Q How long did Deborah Panos stay at G.E.

12 Capital?

13 A About an hour.

14 Q Did you know why she had only stayed

15 for about an hour?

16 A She was making up some time.

17 Q She was doing what?

18 A She was making up time.

19 Q So she came in for one hour?

20 A Uh-huh.

21 THE REPORTER: Is that yes?

22 THE WITNESS: Yes.

23 Q (BY MR. HARMON) Based upon what you

24 knew concerning the relationship of Deborah Panos and James

25 Chappell as of August the 31st, 1995, did you know whether

1 Deborah wanted to continue the relationship with Mr.
2 Chappell at that time?
3 MR. BROOKS: Object, lack of foundation,
4 hearsay.
5 THE COURT: Overruled.
6 THE WITNESS: Could you please repeat the
7 question. I'm sorry.
8 Q (BY MR. HARMON) Yes.
9 Based upon what you knew about the
10 relationship with the defendant, Mr. Chappell, and Deborah
11 Panos, as of August the 31st, 1995, did she want to
12 continue the relationship?
13 A No, she did not.
14 Q Was she going to continue to live at
15 839 Lamb Boulevard, space 125?
16 A No, sir.
17 Q Did you know when she intended to
18 move?
19 A She was in the process of gathering up
20 her things and clearing out rooms when I had moved in the
21 week before.
22 Q So when you moved in with her, it was
23 the week prior to August the 31st?
24 A That she had started cleaning out rooms
25 and things, yes.

1 Q Now did her intention to move have
2 anything to do with the fact that you didn't stay longer
3 than a week with her?
4 A No, sir.
5 Q Did you know where she intended to
6 move?
7 A Yes, sir.
8 Q Where?
9 A There was a man that she was seeing at
10 the time and he wanted her and her children to move in with
11 him.
12 Q What is the name of the man?
13 A His name is JR.
14 Q Did you know his last name?
15 A No.
16 Q Had you ever met JR?
17 A Yes, sir.
18 Q So you've indicated that on August the
19 31st, Deborah Panos left work at about 9 in the morning?
20 A Yes, sir.
21 Q Now, I think you said she arrived at 9?
22 A She arrived at 9 and stayed for an
23 hour.
24 Q So she left about 10 in the morning.
25 Did you know where she intended to go when

1 she left work?

2 A Yes, sir.

3 Q Where?

4 A She intended to go home and clean house

5 for a little while and wait until I got there.

6 Q Did you have an understanding that

7 later in the day you would meet Deborah Panos at space 125,

8 839 Lamb Boulevard?

9 A Yes, sir.

10 Q You told us already that you got off

11 about 1:00 in the afternoon?

12 A Yes, sir.

13 Q Did you go to the Lamb Boulevard

14 residence at that time?

15 A No, sir.

16 Q Where did you go?

17 A I went to my mother's home.

18 Q How long did you stay there?

19 A Fifteen minutes.

20 Q Did there come a time when you went

21 over to keep your appointment with Deborah Panos?

22 A Yes, sir.

23 Q Tell us what type of area she lived

24 in?

25 A She lived in the northeast corner of

1 Las Vegas in a trailer park.

2 Q Do you remember the name of the trailer

3 park?

4 A Ballerina Sunrise.

5 Q As you proceeded through the trailer

6 park to Deborah's residence, did you see something which

7 attracted your attention?

8 A Yes, sir, I did.

9 Q Tell us what you observed.

10 A As I was pulling into the trailer park,

11 I was pulling in going westbound and I noticed her car

12 coming out eastbound.

13 Q Are you sure it was her car you saw

14 coming out?

15 A Yes, sir. I recognized it right away

16 because she didn't have any license plates on her car.

17 Q Have you seen the car a number of times

18 before?

19 A Yes, sir, I had.

20 Q Had some member of your family done

21 repairs on Deborah's car?

22 A Yes, sir.

23 Q Who had worked on her car?

24 A That was my brother, John.

25 Q John Duran?

1 A Yes, sir.
2 Q Were you present when your brother
3 worked on Deborah's car?
4 A Yes, sir.
5 Q When you saw her car, did you notice
6 who was driving, who was inside the car?
7 A I didn't recognize the person at first,
8 no.
9 Q Was it Debbie Panos?
10 A No, sir, it was not.
11 Q Describe the person you saw inside the
12 car?
13 A It was a tall black man driving her
14 car.
15 Q Did you initially recognize who was
16 driving the car?
17 A No, I did not.
18 Q Did you think, at the time you were
19 headed over to Debbie's place to meet with her, that the
20 defendant, Mr. Chappell, was still in jail?
21 A I thought he still was, yes, at that
22 time.
23 Q Did you know at that time he had been
24 released?
25 A No, sir, I did not.

1 Q How fast was her car proceeding when,
2 in your vehicle, you past the car being driven by the black
3 man?
4 A It was less than five miles an hour
5 because there are very large speed bumps on both sides
6 going in and out of the trailer park. So you can't go very
7 fast.
8 Q Did you get a decent look at the person
9 who was driving Debbie's car?
10 A Yes, sir, I did.
11 Q Did you notice anything about the back
12 of the vehicle?
13 A I noticed that the trunk was opened in
14 the back and hanging out from the back there was a
15 bicycle.
16 Q Was there anyone else that you noticed
17 inside the car besides the black man, who was the driver?
18 A No, sir.
19 Q What did you do after you past
20 Deborah's car being driven by the man you have described?
21 A After I past Deborah's car going out, I
22 then drove into the trailer park, parked in front of her
23 trailer, and went to the front door and knocked.
24 Q You say you went to the front door and
25 knocked?

1 A Yes, sir.

2 Q Did anyone respond?

3 A No, sir.

4 Q What happened then?

5 A I kept knocking and there was still no

6 answer. So I thought maybe she had gone over to Mike's

7 house.

8 Q Who is Mike?

9 A Mike is another friend from work.

10 Q What is Mike's last name?

11 A Pollard.

12 Q Please spell Pollard.

13 A P-O-L-L-A-R-D.

14 Q You said Mike Pollard was another

15 friend from work. You are talking about G.E. Capital?

16 A Yes, yes, sir.

17 Q Since you thought perhaps Deborah had

18 gone to see Mike, did you go to Mike's place?

19 A Yes, sir, I did.

20 Q Directly from 839 Lamb Boulevard?

21 A Yes, sir.

22 Q What happened when you got to Mike

23 Pollard's residence?

24 A When I had gotten to Mike's, I walked

25 into his house and I asked him if he knew where Deborah was

1 and he said, "She left here already. She's gone," and I
2 said, "Okay. How long ago did she leave," and he said, "I
3 don't remember what time it was," and then he made the
4 comment to me, "By the way, did you know that James was
5 out," and --
6 Q Up to that moment, did you know that
7 James was --
8 A No, sir, I did not.
9 Q -- out of jail?
10 A I did not, no.
11 Q At that point did your mind flashback
12 to any events you had witnessed before that?
13 A Yes, sir.
14 Q What did it flashback to?
15 A It flashed back to the driveway, me
16 driving in and the car driving out, and the person's face.
17 Q When you understood that Mr. Chappell
18 was out of custody, did you then know who the driver was?
19 A Yes.
20 Q Of Debbie's car?
21 A Yes.
22 Q Who was it?
23 A It was James.
24 Q James Chappell?
25 A Yes.

Q The defendant who is here in the courtroom this afternoon?

A Yes.

Q As you thought back about that, were you sure that he was the driver of the car?

A Yes, sir.

Q What did you do after your conversation with Mike Pollard?

A I then left and went to a convenience store around the corner from Mike's and I attempted to call Debbie at home because Mike didn't have a phone and all I got was her voice mail and I told her that I was looking for her and that I was worried about her.

Q Were you worried about her?

A Yes.

Q Why?

A Cause once Mike told me that James was out, I was afraid that he had done something to her.

Q After you tried to call her and left a message on her voice mail, what did you do?

A I then went back to the trailer and I kept banging on the front door and then I went around to the back door and that was locked too and there was no way for me to get into the house. So I went around to the front where her bedroom was and that's when I noticed that

1 there was something wrong with her bedroom window.
2 Q What do you mean something was wrong
3 with the bedroom window?
4 A The windows in her trailer went up and
5 down instead of side to side and when I looked at the
6 bedroom window, I noticed that the bottom window was off
7 the track.
8 Q Did that add to the concern you had for
9 your friend?
10 A Yes, sir.
11 Q What did you do then?
12 A I then went to the children's day care
13 a block away from her trailer and asked if her children
14 were still there.
15 Q Did you determine whether the children
16 were still at the day care center?
17 A Yes, sir, I did.
18 Q Were they?
19 A Yes, they were.
20 Q Did you have a conversation with any
21 person who worked at the day care center?
22 A Yes, sir, I did.
23 Q Do you remember who you talked to?
24 A I don't remember.
25 Q After you had gone to the day care

1 center, what happened?

2 A After I had left the day care, I was

3 scared. So I went and I drove back to my mother's and I

4 got my mother and my sister -- or my brother and we drove

5 back to the trailer and on the way back, I found a police

6 officer and I told him that I was afraid to go back because

7 I was afraid that something had happened to her and that's

8 when he followed me.

9 Q Did you relay to the police officer,

10 whom you approached, the reasons for your concern about

11 your friend?

12 A Yes, sir, I did.

13 Q Ms. Duran, thinking back to the

14 afternoon where you saw the defendant driving away from the

15 area of Deborah Panos' trailer, can you estimate about what

16 time that was on August the 31st, 1995?

17 A It was about 1:30, a quarter to 2 in

18 the afternoon.

19 Q Approximately how much later was it

20 that you approached the police officer and explained to him

21 your concerns?

22 A It was almost 4:00 that afternoon.

23 Q Did the police officer accompany you to

24 839 North Lamb?

25 A Yes, he did.

1 Q Tell us what happened when you arrived
2 there with law enforcement?
3 A When we arrived there with the police
4 officer, he had called for backup and once backup got
5 there, I showed one of the police officers the window and
6 at that time he took the window out of the track and he sat
7 it down up against the trailer and he went inside.
8 Q Did there come a time when the officer
9 who had gone inside came out?
10 A Yes.
11 Q Did you learn something then?
12 A Yes.
13 Q What did you learn?
14 A That he had found Debbie lying next to
15 the door on the floor and I remembered that I was standing
16 near the porch and he tried to shut the door so that we
17 couldn't see anything and he told us not to go in there.
18 Q Before the officer shut the door, were
19 you able to see any part of your friend Debbie Panos?
20 A Yes.
21 Q What part of her body?
22 A I saw her feet.
23 Q Could you recognize, from what part of
24 her body you saw, that it was her?
25 A Yes.

1 Q On this particular date, August the
2 31st, 1995, was anyone else living at the trailer home at
3 839 Lamb Boulevard, space 125, to your knowledge, besides
4 Deborah Panos and her three children?
5 A No.
6 MR. HARMON: Your Honor, may I have the
7 Court's indulgence?
8 THE COURT: Yes.
9 (Off the record discussion not reported.)
10 MR. HARMON: Your Honor, may I approach the
11 witness?
12 THE COURT: Yes.
13 Q (BY MR. HARMON) Ms. Duran, I'm showing
14 you a photograph marked as Proposed Exhibit 66. Do you
15 know who is portrayed in that photograph?
16 A Yes.
17 Q Is that your former co-worker and
18 friend, Deborah Ann Panos?
19 A Yes.
20 Q Do you have any personal knowledge of
21 when this photograph was taken?
22 A I believe it's her senior picture.
23 Q As a senior, what then, high school?
24 A Yes, sir.
25 Q So this is not a recent picture; is

1 that correct?
2 A Yes, sir.
3 Q I'm showing you now State's Proposed
4 Exhibit 1 and 4. Do you recognize the mobile home which is
5 depicted in Proposed Exhibit 1 and 4?
6 A Yes, sir.
7 Q Whose trailer was this?
8 A This was Debbie's.
9 Q Debbie Panos?
10 A Yes, sir.
11 Q Is this the residence you have been
12 referring to as 839 Lamb Boulevard, space 125?
13 A Yes, sir.
14 Q Now, you said that when you first
15 arrived, you noticed that there was one of the windows
16 which seemed to have the sliding portion off a runner?
17 A It was the second time that I had been
18 back to the trailer that I noticed the window.
19 Q Is that a window which was depicted in
20 the photograph you are looking at?
21 A Yes, sir.
22 Q Will you circle that particular window
23 in green, please.
24 A (Witness complying.)
25 Q Put your initials outside the circle.

A (Witness complying.)

Q Actually, you have drawn a large circle around the window; is that correct?

A Yes, sir.

Q And a smaller circle around some other object. What is that?

A It's the other part of the larger window that I noticed was off the track.

Q Did you see how the window, which you first had seen was off the track, ended up on the ground?

A Yes, sir, I did. I watched the police officer as he took it off the track and sat it down next to the house.

Q Have you placed these two circles and your initials on State's Proposed Exhibit 1?

A Yes, sir.

Q Now, is Proposed Exhibit 4 simply another picture of which focuses on the window which you've already circled in Proposed Exhibit 1?

A Yes, sir.

Q I'm showing you now Proposed Exhibits 56 through 60. I want you to concentrate on the automobile which is shown parked alongside a building. After you've looked at all the photographs, will you tell us if you recognize the car.

1 A I recognize it.

2 Q Whose car is this, which is shown in

3 Proposed Exhibits 56 through 60?

4 A It's Debbie Panos' car.

5 Q Are you sure this is her car?

6 A Yes, sir.

7 Q It's a Toyota vehicle?

8 A Yes, sir.

9 Q What color was her car?

10 A Silver and black.

11 Q I think you mentioned that it didn't

12 have a license plate on it?

13 A Yes, sir.

14 Q Yes, sir, it did not have?

15 A It had no license plates. None in the

16 front and none in the back.

17 Q Is the car, which is shown in these

18 photographs, Proposed Exhibits 56 through 60, the same

19 vehicle you saw the defendant, Mr. Chappell, driving

20 between 1:30 and 1:45 p.m. on August the 31st, 1995?

21 A Yes, sir, it is.

22 Q Are you sure of that?

23 A Yes, sir.

24 Q Now you mentioned that Debbie had three

25 children?

1 A Yes, sir.

2 Q James, Anthony, and Chantell?

3 A Yes, sir.

4 Q Do you know if all four members of the

5 family had social security cards?

6 A Yes, sir, I do.

7 Q Did you know where Deborah kept the

8 social security cards?

9 A She had a black folder. It was like a

10 day organizer that she always carried around with her. She

11 didn't have a purse.

12 Q Did she show you the black folder on

13 occasion?

14 A Yes, sir.

15 Q Had you had an opportunity to look

16 inside the black folder?

17 A Yes, sir, I did.

18 Q Is that how you know where the social

19 security cards were kept?

20 A Yes, sir.

21 Q Is that where they were always kept, to

22 your knowledge?

23 A Yes, sir.

24 Q Did she keep the black folder in any

25 particular place?

1 A She kept it where she could see it at
2 all times.
3 Q And you say she would carry it with her
4 instead of a purse?
5 A Yes, sir.
6 Q I'm showing you what the clerk has
7 marked as Proposed Exhibit 64. It's a two page document.
8 Do you recognize what this is a copy of?
9 A Yes, sir, I do.
10 Q What is it a copy of?
11 A Their social security cards.
12 Q Social security cards of Deborah Panos
13 and her three children?
14 A Yes, sir.
15 Q Are these the cards you were referring
16 to which you said were kept by her in the black folder?
17 A Yes, sir.
18 Q During the period of time that you knew
19 Debbie Panos prior to her death, did she work throughout
20 that time interval at G.E. Capital?
21 A Yes, sir.
22 Q Did she work on a regular basis?
23 A Yes, sir.
24 Q To your knowledge, was her former
25 boyfriend, the defendant, Mr. Chappell, employed, gainfully

JChaPPell-8JDC1204

employed?

A Not prior --.

MR. BROOKS: Objection, irrelevant.

THE COURT: Overruled.

THE WITNESS: No, sir, not prior to that, no.

Q (BY MR. HARMON) Not prior to what?

A When I had first met Debbie at G.E. and we were getting to know each other, she said that she had just moved in.

MR. BROOKS: Objection, hearsay.

THE COURT: That's sustained.

(At this time, another court reporter took over the proceedings.)

(Off the record at 2:30 p.m.)

* * * * * *

ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF PROCEEDINGS.

Patsy K. Smith

PATSY K. SMITH, C.C.R. #190

PATSY K. SMITH, OFFICIAL COURT REPORTER

EXHIBIT 133

68

JChappell-8JDC0857

1 DISTRICT COURT

2 COUNTY OF CLARK, STATE OF NEVADA

3 FILED IN OPEN COURT
OCT 1 1 1996 19
LORETTA BOWMAN, CLERK
4 BY Deputy

5 THE STATE OF NEVADA,)
6 Plaintiff,) ORIGINAL
7 vs.) Case No. C131341
8 JAMES MONTELL CHAPPELL,)
9 Defendant.)

10 REPORTER'S TRANSCRIPT
11 OF
JULY TRIAL, VOLUME III, AFTERNOON SESSION

12 BEFORE THE HONORABLE A. WILLIAM MAUPIN, DISTRICT JUDGE

13 OCTOBER 10, 1996
14 2:30 P.M.

APPEARANCES:

15 For the Plaintiff: MELVYN T. HARMON, ESQ
16 Deputy District Attorney
17 &
18 ABBI SILVER, ESQ.
Deputy District Attorney

19 For the Defendant: HOWARD S. BROOKS, ESQ.
20 Deputy Public Defender
21 &
22 WILLARD N. EWING, ESQ.
Deputy Public Defender

23

24 REPORTED BY: Marcia Leonard, RPR, CCR No. 204

25

CE

JChappell-8JDC00858

1 I N D E X

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JChappell-8JDC0860

1 CLARK COUNTY, NEVADA, OCTOBER 10, 1996, 2:30 P.M.

2 * * * * * *

3

4 DIRECT EXAMINATION (CONTINUED)

5

6 BY MR. HARMON:

7 Q The time interval I'm asking you about is

8 not before she came to Las Vegas, not before she

9 worked at GE Capital.

10 To your knowledge from the time that you

11 met while she was working at GE Capital as a co-worker

12 with you up until she was killed, to your knowledge

13 was the defendant, James Chappell, employed?

14 A No, he was not.

15 Q You've already described a number of

16 telephone conversations that you had with Mr.

17 Chappell?

18 A Yes.

19 Q Is there any doubt in your mind that you

20 were talking to James Chappell?

21 A No, sir.

22 Q He's the person who uttered threatening

23 remarks concerning Deborah Panos?

24 A Yes, sir.

25 Q Was he jealous of her?

A Yes, sir.

Q Was she afraid of the defendant, Mr. Chappell?

A Yes.

Q How do you know that?

A She told me.

Q On one occasion or various times?

A On various occasions.

Q To your knowledge, was she still afraid of him on August the 31st, 1995?

A Yes.

Q Did she know he was out of custody the morning that you saw her at work August the 31st, 1995?

MR. BROOKS: Objection, calls for speculation.

THE COURT: Overruled.

THE WITNESS: No, she did not.

BY MR. HARMON:

Q You've mentioned that she was in the process of moving?

A Yes, sir.

Q Was it her intention to be moved from 839 North Lamb Boulevard, Space Number 125, before the defendant was released from jail?

A Yes.

Q Why did she want to be away from that residence before he was released?

A Because she didn't want to be with him anymore, and she just wanted out.

MR. HARMON: May we have the court's indulgence, your Honor.

THE COURT: Yes.

BY MR. HARMON:

Q Miss Duran, did you know approximately how long Deborah Panos and Mr. Chappell had had a relationship together?

A Almost ten years.

Q Almost ten years?

A Yes, sir.

Q When you saw Debbie for about an hour at GE Credit the morning of August the 31st, did you see any sign of injury to her face or head or any part of her body?

A No, sir.

Q Did she seem to be in a normal frame of mind?

A Yes, sir.

Q After the crime was discovered, was there ever a time when you had an opportunity to go into the

JCheppell-8JDC0863

trailer?

A Yes.

Q Did you know what type of housekeeper your friend was?

A It was very hard for her to keep up sometimes because she had three small children.

Q You've already told us that they were rather tender years, seven, five and three?

A Yes.

Q Did you observe anything unusual when you had a chance to go into the trailer after the crime had been committed?

A Just I -- it just looked like somebody had been through it.

Q What do you mean that it looked like someone had been through it?

A Someone had been through it looking for something. There were papers and things all over her house.

Q Would it be typical for Deborah even with three small children in the house to leave papers scattered around the trailer?

A No, sir.

Q To your knowledge did she have kitchen knives in the trailer?

JChaPell-8JDC0864

A Yes, she did.

Q Would that have included steak knives?

A Yes, sir.

Q Did she just leave them lying around or would she have stored any knife that she had in a certain place?

A She kept the knives in the kitchen drawer.

Q Was that a drawer in the kitchen?

A Yes, sir, between the stove and the refrigerator.

Q Did you know from your relationship with her that she would have been concerned about the children having ready access to sharp instruments?

A Yes, sir.

Q Would she have been concerned?

A Yes, sir.

MR. HARMON: Your Honor, may I have the court's indulgence again.

THE COURT: Yes.

MR. HARMON: May I again approach the witness, your Honor.

THE COURT: Yes.

BY MR. HARMON:

Q Miss Duran, I'm showing you Proposed

JChappell-8JDC0865

Exhibit 21.

I want you to concentrate on the knife which is shown. It appears to be on some carpet. Do you recognize the knife?

A Yes.

Q How is it that you recognize the knife?

A I had seen it in the house before. I noticed it because of the worn mark at the end of it.

Q You're talking about right down on the tip of the back of the handle?

A Yes, sir.

Q Whose knife was it?

A It was Debbie's.

Q Debbie Panos' knife?

A Yes.

Q What type of knife is this?

A I believe that it's a steak knife.

Q Do you know how the steak knife got from the drawer in the kitchen to the floor on the carpet?

A No, sir.

MR. HARMON: That concludes direct, your Honor.

THE COURT: Cross.

MR. BROOKS: Thank you, Judge.

8JDC086

1 CROSS EXAMINATION

2 BY MR. BROOKS:

3 Q Miss Duran, going back to September or

4 October of '94, when did you actually move to Las

5 Vegas?

6 A It was in June.

7 Q June of '94?

8 A Yes, sir.

9 Q And when did you meet Deborah Panos?

10 A In December of '94.

11 Q When did you start working at GE Capital?

12 A December of '94.

13 Q When you saw the incident in December of

14 '94, how long had you known her?

15 A About a week.

16 Q At that time had you ever met James

17 Chappell?

18 A No, sir.

19 Q Did you know anything about James

20 Chappell at that time?

21 A No, sir.

22 Q Had you ever been in her home at that

23 time?

24 A No, sir.

25 Q And you had never spoken to James

1 Chappell either, I assume?
2 A No, sir.
3 Q When you witnessed this incident in
4 December of '94, did you talk to Deborah Panos about
5 the incident?
6 A No, I did not.
7 Q Did she have any marks on her from this
8 incident?
9 A Yes, sir, she did.
10 Q What kind of marks did she have on her?
11 A A hand mark on her face.
12 Q Was it a bruise?
13 A It was a red mark. You can tell that she
14 had been slapped. You could see the fingers.
15 Q And that lasted how long?
16 A About a day.
17 Q There was no blood?
18 A No, sir.
19 Q How far away were you when you saw this
20 incident?
21 A About six feet away.
22 Q And you were inside the building and the
23 car is out in the parking lot?
24 A Yes, sir, I was between two doors.
25 Q But you were actually inside one of the

doors and the other door is very close to you?

A Yes, sir.

Q And they are out in the parking lot?

A Yes, sir.

Q And they are about six feet away?

A Yes, sir.

Q Who was sitting in the driver's seat, if you recall?

A James was.

Q And where was Deborah seated?

A In the passenger seat.

Q Were the doors to the car open?

A They were shut.

Q Could you hear any words at all?

A No, sir, I could not.

Q Did you tell her -- did you call the police after this incident?

A No, sir, I did not.

Q Did you advise Debbie to call the police?

A No, sir, I did not.

Q Did you advise her to get any counseling on domestic violence?

A No, sir, I did not.

Q When would you say that you started becoming a good friend of hers?

JChappell-8JDC0869

A I would say it was the end, the end of December, around Christmastime is when we started to get to know each other.

Q And would you say that you all became like real good friends or just friends?

A We were really good friends.

Q Was she your best friend?

A One of them, yes.

Q Would you say that you were probably one of her best female friends?

A Yes.

Q What contact did you have with her after the January 9th incident when she broke her nose?

A It was at work.

Q And you saw her at work?

A Yes, sir.

Q Did you discuss with her what had happened to her?

A Yes, sir, we had.

Q She told you that James did it?

A Yes, sir, she did.

Q Did you encourage her to follow-up and prosecute James?

A No, sir, I did not.

Q Did you encourage her to do anything to

8JDC086

get away from James?

A No, sir, I did not.

Q You've testified that you eventually moved in with her. When did you move in with her?

A It was the week before she had died.

Q The week before she died?

A Yes, sir.

Q And did you actually stay at that trailer during that week?

A Yes, sir, I did.

Q Had you visited the trailer a lot before that?

A Yes, sir, I did.

Q Did you spend a lot of time there visiting with Deborah?

A Yes, sir, I did.

Q Did you spend much time there visiting with James?

A Never.

Q Never, not at all?

A Not at all.

Q When do you think is the first time that you went into that trailer?

A Probably the end of January, the beginning of February.

Q And from that time until you moved in, approximately how many times a week would you go there?

A About twice a week.

Q Would you baby-sit for her sometimes?

A Yes, sir, I did.

Q How many times do you think that you talked to James on the telephone?

A As I stated before, five times.

Q Five times total?

A Yes, sir.

Q Did you ever have conversations with him in person?

A No, sir, I did not.

Q Never during all that time?

A No, sir.

Q He was in jail from roughly the beginning of June until she died; is that correct?

A From what I understand, yes.

Q And during that time you did talk to him on the telephone?

A Yes, sir, I did.

Q And you were at her place of living when you talked to him?

A I was at her place, but at the time I had

JCharrell-8JDC0872

spoken to him I was not living there.

Q Did you ever see Deborah take any of his calls there at the trailer?

A Yes, I did.

Q Did that happen very often?

A A couple of times a week that I was there that I could see.

Q She would take his calls?

A Yes, she would.

Q Did you ever spend any time socially with her and James?

A No, I did not.

Q You never went to a restaurant with them?

A No.

Q Did you ever hear her tell James that their relationship was completely and totally over?

A No, I did not.

Q Never?

A Never.

Q Do you know if she ever told him that?

A The only way I know that she told him that is because she told me.

Q You would agree that as it's -- trite as it sounds -- breaking up is a difficult thing to do?

A In this case more so, yes.

1 Q Did she ever tell you that she loved
2 James?
3 A Yes, she did.
4 Q Did she tell you that very often?
5 A In the beginning when she and I had first
6 met she always defended him because he was the father
7 of her children, and that's why I never got into it
8 with her about the abuse because she always defended
9 him.
10 Q Did you encourage her to leave him?
11 A No, I did not.
12 Q When the police came on the day of August
13 31st, did you tell the police about the temporary
14 protective order?
15 A Yes, I did.
16 Q Did you tell the police there was a
17 temporary protective order telling James to stay away
18 from her?
19 A Yes, sir, I did.
20 Q Did you also tell the police that she had
21 testified against him the day before in city court?
22 A Yes, I did.
23 Q And do you believe that to be true?
24 A No, I do not.
25 Q But you did tell the police that?

JChappell-8JDC00874

A I did.

Q You have indicated that she wanted to move out of that trailer to live with someone named JR?

A Yes, sir.

Q Do you have any contact with JR now?

A No, I do not.

Q You don't know JR's last name?

A No, I do not.

Q When you were living in the trailer was she seeing JR?

A Yes, she was.

Q Did you ever see JR receive any phone calls when James called?

A No, I did not.

Q Was JR around the kids?

A Yes, he was.

Q Because the kids were living there with Deborah?

A Yes, sir.

Q Did you know that Deborah went to city court on the 30th of August?

A Yes, I do.

Q And do you know that she learned at that time that he would be released the next day?

8JDC087

A No, I do not.

Q But you believe that she was moving to get away from him?

A Yes, sir, I do.

Q He had been in jail for almost three months, correct?

A Yes, sir.

Q Had she ever decided to move before that?

A No, sir, but she had tried to, on one occasion, to see to it that he go back home when he was let out.

Q That being back to Michigan?

A Yes, sir.

MR. BROOKS: Court's indulgence, your Honor.

BY MR. BROOKS:

Q Do you know who Willie Wiltz is?

A Willie is JR's real name.

Q Is that right?

A Uh-huh.

Q So JR is Willie Wiltz, W-I-L-T-Z?

A Uh-huh. I don't know his last name.

Q And they had been dating each other for about three months as of August 31st?

A Yes, sir.

JCharrell-8JDC0876

Q Did you introduce Willie to Deborah?
A No, sir, I did not.
Q When you stayed at Deborah's for that one week period, who else was living there in the trailer?
A Her three children, my daughter, and one of her other friends from work.
Q Who was the other friend from work?
A Michelle.
Q And her last name was?
A Mancho.
Q How many rooms does the trailer have?
A A master bedroom and two smaller bedrooms.
Q No men were living at the trailer?
A No, sir.
Q If James testified that he would call there and often talk to other men, would James be wrong or right?
A I wouldn't know. I wasn't there when he was there.
Q Was there a lot of traffic in and out of the trailer?
A She had a lot of friends, yes.
Q A lot of friends came and went?
A Yes, sir.

MR. BROOKS: Thank you. No further questions.

THE COURT: Redirect.

MR. HARMON: Thank you, your Honor.

REDIRECT EXAMINATION

BY MR. HARMON:

Q You have been asked if the defendant was in the driver's seat in December 1994 when you saw him hit Deborah Panos?

A Yes, sir.

Q I think that you testified that he was?

A Yes, sir.

Q Did you become aware not only then but on other occasions that he had driven the Toyota which belonged to Deborah Panos?

A Yes, sir.

Q Did you learn that there had been problems on occasion when she would let him drive the car?

A Yes, sir.

Q What were the problems?

A The problems were she didn't want him to have the car, but he took it anyway.

Q Would he sometimes be gone for days?

A Yes, sir.

Q Specifically on August the 31st, 1995, when you realized that it, in fact, was Mr. Chappell who was driving the car on that day, did that add to your concern?

A Yes, sir, it did.

Q Why?

A Because from what she had told me and from the conversations he and I had on the phone that I could understand why she was afraid of him.

Q Was it your opinion that he would have had permission from her to drive the vehicle?

MR. BROOKS: Objection, that's speculation.

THE COURT: Overruled.

BY MR. HARMON:

Q In August, specifically on August the 31st, 1995?

A No, sir.

Q Mr. Brooks has asked you if, in your opinion specifically in the case of Mr. Chappell and Miss Panos, it was hard for them to break up?

A Uh-huh.

Q As I remember, you agreed with him that it was?

1 A Yes.
2 Q Why, based upon what you knew about the
3 relationship and based upon what you knew of the
4 circumstance of Deborah Panos, and any fears that she
5 might have had, why was it hard?
6 MR. BROOKS: I'm going to object as to
7 her testifying to state of mind of Deborah Panos.
8 THE COURT: Overruled.
9 THE WITNESS: Can you please repeat the
10 question.
11 MR. HARMON: Yes.
12 BY MR. HARMON:
13 Q Why was it hard for her to break up?
14 A Because she was afraid of him. And as I
15 said before, in the beginning she had defended him
16 because he was the father of her children. So I think
17 the combination of the fear and also the combination
18 that in some way she felt some loyalty to him because
19 of the children, so that might have made it hard for
20 her.
21 Q Now, you were also asked in
22 cross-examination if you had told the police that
23 Deborah Panos testified in court against the defendant
24 the day before, that is August the 30th, 1995?
25 A Because I believed at that time that she

had, and it wasn't until later that I learned that she hadn't.

Q You have mentioned that you knew that she was breaking the relationship off because she told you?

A Yes, sir.

Q Did she ever tell you that she had conveyed that to James Chappell?

A Yes, sir.

Q When was the conversation you had with her when she told you that?

A It was on more than one occasion that she had told me.

Q Do you have any type of knowledge based upon conversation with her whether she had spoken at the jail with Mr. Chappell on August the 30th, 1995?

A I had learned later after she had died.

Q Okay. Well, you didn't learn it then from Debbie Panos?

A No, I didn't.

Q Based upon any information that you had in conversation with Deborah Panos, prior to the morning of August the 31st, 1995, and including any contact with her at work, did you have any expectation that the defendant was going to be released that day,

1 August the 31st, 1995?
2 A No, sir.
3 Q To your knowledge did she?
4 A No, sir.
5 Q Did you have any expectation regarding
6 the time frame of his release?
7 A No, sir. No one -- none of us had any
8 idea.
9 Q You told us that she was afraid of Mr.
10 Chappell?
11 A Yes, sir.
12 Q As a result of that and because of the
13 uncertainty of when he would be released from jail,
14 did she like to have people with her at her trailer?
15 A Yes, sir.
16 Q Did she tell you that?
17 A Yes, sir.
18 Q To your knowledge was that a source of
19 some security to her?
20 A Yes, sir.
21 Q You mentioned earlier that you used to
22 spend quite a bit of time at her trailer?
23 A Yes, sir.
24 Q Okay. And, in fact, you lived there for
25 about a week prior to her death?

A Yes, sir.

Q But even before the defendant, Mr. Chappell, went to jail, did you visit perhaps twice a week from February, 1995 through August?

A Yes, sir.

Q When you would visit, would you encounter the defendant, Mr. Chappell, at the trailer?

A No.

Q You said that you met him Memorial Day weekend, 1995?

A Yes, sir.

Q So I'm gathering from that certainly between February and the end of May 1995, during these weekly visits, that you never encountered Mr. Chappell at 839 North Lamb, Space 125?

A No, because most of the time it was just to drop her off from work.

Q When you met him, was that there at the trailer?

A Yes, sir, it was.

Q Did you actually see him on other occasions at the trailer?

A Before that or after that?

Q Before or after?

A Not before that and not after that

1 either. That was on the only --
2 Q Just the one time?
3 A Just the one time.
4 MR. HARMON: Thank you. That's all, your
5 Honor.
6 MR. BROOKS: No questions, your Honor.
7 THE COURT: May this witness be
8 discharged?
9 MR. HARMON: Yes, your Honor.
10 THE COURT: Thank you.
11 We'll take our afternoon recess at this
12 point. I take it that the next witness is also going
13 to take some time?
14 MR. HARMON: The next couple of witnesses
15 will not be very long, but this would not be an
16 inappropriate time to break.
17 THE COURT: During this recess it is your
18 duty not to discuss or converse among yourselves about
19 any matter concerning or this trial or read, watch or
20 listen to any report of or commentary connected with
21 this trial by need medium of information including,
22 without limitation, newspapers, television or radio
23 and you're not to form or express an opinion on any
24 subject connected with this case until it is finally
25 submitted to you.

We will reconvene at 3:15, ladies and gentlemen. We'll be at ease while you depart the confines of the courtroom.

A JUROR: Can we see those photographs when we're done?

THE COURT: Of course, as they are admitted.

(Outside the presence of the jury.)

THE COURT: Is there anything further from the parties at this time?

MR. BROOKS: Not from the defense, your Honor.

(Recess.)

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THE COURT: Back in front of the jury. Counsel stipulate to the presence of the jury?

MR. HARMON: Yes, your Honor.

MR. BROOKS: Defense will, your Honor.

THE COURT: Let's proceed. Call your next witness.

MS. SILVER: The State would call Dr. Sheldon Green.

THE CLERK: Do you solemnly swear the testimony which you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

GILES SHELDON GREEN, M.D.,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SILVER:

Q Sir, can you please state your name and spell it for the record.

A Giles Sheldon Green, G-R-E-E-N.

Q And, sir, for whom are you employed?

A I'm employed by Clark County as Chief

8JDC088

1 Medical Examiner in the Coroner/Medical Examiner
2 Department.
3 Q And what is your training and experience?
4 A I attended the University of Oregon
5 School of Medicine in Portland, Oregon, and received
6 my degree of Doctor of Medicine in 1959.
7 I served one year internship in Saint
8 Mary's hospital in San Francisco, and then one year of
9 both graduate training, or residency training, in the
10 field of obstetrics and gynecology. That also was at
11 Saint Mary's.
12 During that year, I changed my field of
13 interest to pathology and spent the next two years in
14 post-graduate training in pathology in Saint Joseph's
15 Hospital, which also was in San Francisco.
16 I then moved to Houston, Texas, and spent
17 the next three years in post-graduate training in
18 pathology at the University of Texas, M.D. Anderson
19 Hospital and Tumor Institute, which is one of the
20 major cancer research centers in the whole western
21 hemisphere.
22 Following that, I was appointed to the
23 staff of Anderson Hospital as assistant pathologist
24 and professor of pathology in the University of Texas
25 system.

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1 I remained on the staff for approximately
2 two years. And in the fall of 1968 I had the
3 opportunity to join the Harris County Medical
4 Examiners, which is located in Houston. I served with
5 that department for approximately seven years first as
6 assistant medical examiner and later as deputy chief
7 medical examiner.
8 And, finally, in the fall of 1975, I
9 moved here to Las Vegas to join the Coroner Medical
10 Examiner Department as Chief Medical Examiner, and I
11 have been here every since. I am licensed to practice
12 medicine here in Nevada, of course.
13 I still have an active license in
14 California. I am certified by the American Board of
15 Pathology in the fields of anatomic pathology, medical
16 pathology and forensic pathology.
17 I am not going to bother you with a list,
18 but I'm a member of most of the major professional
19 organizations in North America which deal with
20 problems of forensic pathology and the forensic
21 sciences generally.
22 Q Thank you, Dr. Green.
23 Now, as part of your duties do you
24 conduct autopsies?
25 A I do.

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Q And about how many autopsies have you conducted in the past?

A Well, by best estimate I'm pushing up pretty close to 11,000. I don't think I quite got there yet.

Q Have you ever testified as an expert in the field of forensic pathology?

A Many times, yes.

Q About how many?

A Several hundreds.

Q And in what courts?

A I've testified here in the district courts of Clark County, in the justice courts, before the Grand Jury, in preliminary hearings.

I have testified in various other counties in Nevada. We have Nye County, Lincoln County, Lyons County, a couple of others, White Pine. Also in the district courts of Harris County and the adjoining counties in south Texas. I think that's the Ninth Judicial District down there, and in the federal courts of Texas, Arizona and Nevada.

MS. SILVER: Your Honor, at this time I would ask that this court deem Dr. Green an expert in the field of forensic pathology.

THE COURT: He will be allowed to testify

8JDC088

to such.

MS. SILVER: Thank you.

BY MS. SILVER:

Q Doctor, on September 1st of 1995, did you have an occasion to perform an autopsy on a body identified to you as Deborah Panos?

A Deborah Ann Panos?

Q Yes.

A Yes, I did.

Q And as part of your -- as part of performing your autopsy, did you do an external examination?

A Yes, I did.

Q And did you make significant findings regarding that examination?

A Yes.

Q What were those findings?

A Well, first of all, let me give you a real quick idea of what an external examination is.

Basically, my own habit is to start at the top of the head and work my way down to the toes examining all of the external parts of the body, dictating what I see as I go, whether it's with a fixed recording equipment, or now I'm using hand-held for this because I can walk around the body and not

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1 have to worry about how far I get from the microphone.
2 But basically we're looking to see if
3 there is anything out of the ordinary, is there a
4 bruise, is there an injury, is there a deformity, a
5 scar, a tattoo, anything at all that is unusual.
6 In this case, there were numerous bruises
7 and abrasions or scraping injuries about the face.
8 There were stab wounds in the area of the neck and
9 upper chest. There was a stab wound right near the
10 navel or the umbilicus, and there was another down
11 just above the right groin. Another, the best I
12 remember, was behind and below the right ear.
13 The major injuries, most significant
14 injuries, are the ones in the neck and upper chest.
15 I saw bruising of the back of the right hand and
16 wrist, possibly indicating some defensive injury as
17 though she might perhaps -- and I can't tell you that
18 this is actually what happened because obviously I
19 wasn't there -- but if she throws up her hand to ward
20 off a blow or an object and gets hit by it on the back
21 of the hand, you're going to get a bruise and she did.
22 There was a small scratch on the left
23 hand, oh, a quarter of an inch long. Whether this has
24 anything to do with the events surrounding her death,
25 I cannot tell you. If they do, then you might

1 classify them as a scratch as a sort of a minimal
2 defensive injury.
3 Q How many total penetrating stab wounds
4 were there, Doctor?
5 A Ten, I'm sorry. Ten in the upper neck
6 and chest. A total of 13.
7 Q And of those stab wounds how many of
8 those stab wounds hit the bone or any bones?
9 A When we did the internal exam, we found
10 that there were four of this cluster of ten that had
11 actually gone in and struck the spinal column in the
12 neck, the front part of the spinal column.
13 Q Were there also significant injuries to
14 certain veins in the neck?
15 A Veins and arteries, yes.
16 Q And what were they?
17 A The right internal jugular vein, which is
18 a pretty good size one -- oh, it's about the size of
19 my pen here -- was partly cut through on the right.
20 Both the common carotid arteries were cut, each of
21 them, about halfway through. Not totally cut in two,
22 but major wounds allow for a tremendous amount of
23 blood loss. The general area would be about where I'm
24 indicating here across the front of my neck just above
25 the collar.

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Q Were there any injuries that penetrated the lung?

A We had one that went into the left lung. There is one of the stab wounds, down just a little bit, which penetrated the left side of the chest between, I think, the first and second rib and actually went into the left lung, yes.

Q Doctor, when you say that this body had bruises and contusions on it, can you explain what bruises are and what contusions are and what abrasions are?

A Okay. Bruises and contusions are two words for exactly the same thing. Use either one that you like and you will be right. We all have had bruises, I'm sure. I've had my share anyhow.

And when they occur, we have a certain amount of pain. And then you look down a few minutes later and it's starting to look red. Maybe swells up, maybe not. That red color will persist for most of the day.

So anything that is red, has a red color to it, we call that a recent bruise that happened within a day of the time of death in this case, or within a day of the time that you look at it.

The next day or so it starts turning a

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1 sort of ugly purple. We call that color intermediate.
2 You cannot put a time frame on it because a minor
3 little bruise that doesn't amount to anything may fade
4 out and be gone in three or four or five days.
5 A major one, such as I've seen in motor
6 vehicle accidents, may take months before it
7 disappears. And it will maintain that ugly blue,
8 purple color for that period of time. So that color
9 we call intermediate.
10 When it finally starts to disappear, then
11 you see the edge starting to fade out turning a kind
12 of ugly color, yellow-green. Gradually that color
13 moves in toward the center toward the purple and is
14 wiped out and finally the whole thing disappears. If
15 you see that fading border, you can call that an old
16 one.
17 Again, we can't say how old in terms of
18 the time of when the person got it to when you're
19 looking at it. In this case, Miss Panos, these are
20 were all very red bruises, all very recent.
21 Q And am I correct then in your definition
22 then you either categorize the bruises into recent,
23 intermediate and old bruises?
24 A That's correct.
25 Q In this case you would characterize all

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of the bruises and abrasions or contusions as recent appearing injuries?

A Yes. Now, I haven't talked about abrasions yet. That's a little bit different situation here. We did have some abrasions. Abrasion is a scrape. If we bang an unprotected elbow or wrist or some other part of our body against a rough plaster wall hard enough, we're going to knock a little skin off, and we have an abrasion. It's a scraping injury.

It can be very superficial not amounting to anything. It can be pretty deep. It can sometimes take a whole thickness of the skin off as we often see in vehicular accidents.

In this case, we had a definite abrasion type of injury at the point of the chin. We had another one over here around the angle of the right jaw. And I think that we had one or two smaller ones up on the left forehead. They are associated with bruises, but they are a little bit different because in a bruise we don't see the skin being actually broken. If the skin is broken, then we have an abrasion.

Q When you say all of these injuries appear to be recent injuries, would it be fair to say that these injuries were caused within the same day of the

1 death of this person?
2 A Yes.
3 Q For the record, I have shown defense
4 counsel the following State's proposed exhibits.
5 I would like to show you, Doctor, first,
6 State's Proposed Exhibit Number 41 for identification
7 purposes.
8 And what is this a picture of?
9 A This is a right profile view of the
10 lady's face, neck, upper chest, taken with -- for
11 example, if it was taken of me, the camera would be
12 over here shooting at me that way.
13 And what we see is a lot of bruising of
14 the right ear. Bruises around the angle of the jaw.
15 There are some fainter bruises over the right cheek
16 bone, and some of the stab wounds of the neck and the
17 upper chest also are visible in this particular
18 picture.
19 Q And, Doctor, do you have an opinion as to
20 what could have caused these red and purple bruises
21 around the ear and neck area --
22 A Well --
23 Q -- and the face?
24 A -- to me they are all pretty red. I
25 don't see a whole lot of purple here. This is blunt

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1 trauma injury. Something strikes the body or the body
2 is in motion and strikes something that's not moving,
3 you get the same result. You get an impact-type
4 injury.
5 Q Could this be consistent with a blow from
6 a fist?
7 A It certainly could be. I can't say that
8 it was. But, yes, it could be.
9 Q And this would be a fair and accurate
10 depiction of the way that the body identified as
11 Deborah Panos looked to you on September 1st of 1995?
12 A That is correct, yes.
13 MS. SILVER: Your Honor, I would move to
14 admit State's Proposed Exhibit Number 41 for
15 identification purposes.
16 MR. BROOKS: We object to the admission
17 of those exhibits. We will stipulate to the testimony
18 of Dr. Green, but we object to the photographs as
19 being ghastly and unduly prejudicial.
20 THE COURT: That objection is overruled.
21 Their probative value clearly outweighs the
22 prejudicial effect given the nature of the offense.
23
24 (State's Exhibit 41
admitted into evidence.)
25

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BY MS. SILVER:

Q Showing you next, Doctor, State's Proposed Exhibit number 42.

Can you tell us what this is a picture of.

A 42 is a more of a close-up of the right side of the face. Specifically, we're looking at that right ear and these bruises and abrasions around the angle of the jaw.

And in the picture you'll see an L-shaped ruler which belongs to the photographer, and it has marking scales on it. These are metric. These are scaled off in centimeters, and the scale on each side of the L is a five centimeter length which basically is two inches. So you can translate that into two inches without difficulty and get a good idea of the size of the injuries.

Now, below the ruler, again we have the right side of the neck and you can see the upper chest and several of these stab wounds of the neck and chest are visible.

Q And this is also a fair and accurate depiction of how the body of Deborah Panos appeared to you on that date?

A Yes, it is although that is after she had

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1 been cleaned up considerably.
2 Q And let me just ask you this, Doctor,
3 because I'm going to have you actually address the
4 jury with these.
5 You have looked at State's Proposed
6 Exhibits 39 -- keep them in order, 37, 38, 40, 45, 44,
7 43, 46, 47, and, excuse me, 48 -- you've seen these
8 all prior just prior to your arrival up here on the
9 stand today?
10 A Yes, I have, and I think that I've seen
11 them before that too.
12 Q And these would all be autopsy photos
13 taken of the body identified to you as Deborah Panos
14 on September 1st of 1995?
15 A Yes. All of these were taken in the
16 Clark County Morgue by the officer from the crime lab.
17 I believe that was Mr. Peterson.
18 Q And they too would all be a fair and
19 accurate depiction of how this body appeared to you on
20 that date?
21 A Yes, they are very good.
22 MS. SILVER: At this time, your Honor, I
23 would move to admit the exhibits that I have just
24 mentioned. For purposes of identification, I would
25 move for their receipt into evidence the exhibits that

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I just named.

MR. BROOKS: We object on the same basis as to all of them.

THE COURT: You can have a continuing objection. They will be admitted.

(State's Exhibit 37, 38, 39, 40, 43, 44, 45, 46, 47, 48 admitted into evidence.)

BY MS. SILVER:

Q If I could, Dr. Green, could I stand up here and it may be easier to show the jury as you're talking about each one of the injuries. If you could stand up and show the photographs as we discuss the injuries.

MS. SILVER: Your Honor, may I publish these to the jury?

THE COURT: Yes.

BY MS. SILVER:

Q At this time let me start with Exhibit 41.

If you could show that to the jury and explain again what you're talking about by the bruising and the stab wounds?

A Okay. The bruising is largely up here

around the right here and right side of the jaw. You can see some discoloration of the area of the right cheek bone. I'll kind of move down line here so everybody gets a chance to see this a little better. But there really is the area of bruising that's significant here in this picture.

Again, down below on the neck and chest you can see some marks which actually are the stab wounds.

You folks in the back row can see it all right?

Q And showing you Exhibit Number 42.

Can you explain again for the record what this is a picture of and describe it to the jury as well?

A Okay. 42 we're looking at the same part of the body. Right here, right side of the jaw, but a closer up and here is that L-shape ruler that I was talking about. And down below the marks of the stab wounds, but basically the ruler is in there to give you a reference as to the actual size of these injuries.

Q I'm showing you now Exhibit Number 37.

Can you describe what it is for the record a picture of, and then explain it to the jury?

A Okay. 37 is a left profile view of the lady's face taken from off to her left side. And here we have some scraping, abrasion-type injuries in the forehead. And we have a large area of bruising on the left cheek. Some marks down below in the neck area which, in fact, are some of that cluster of stab wounds.

Q Dr. Green, on the forehead there you see a very large injury. What is that, a very large --

A You're pointing to this one?

Q Yes, a very large, red injury.

A This is an abrasion. This is a scrape-type injury. It's the largest one that you see on the forehead here is the one that she was referring to.

Q What could that have been caused by?

A This is something scraping over that skin. Whether it's the skin of the fist, whether it's -- I have no idea what it was. But something is scraping the skin surface there.

Q Okay. That was not and a knife wound then?

A No, this is not a knife wound. We have no knife wounds up here in the forehead.

Q Okay. I just wanted to make that clear

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on the record.

A There is one picture where it is little bit confusing because it looks like it might be one that actually isn't.

Q You said that when the pictures were taken the body was cleaned up. What do you mean by that, Doctor?

A Well, there was quite a bit of blood scattered about various parts of the body especially on the neck and shoulders, some on the face.

Q And showing you what has been admitted as State's Exhibit Number 38.

Can you describe what that is for the record and also identify it for the jury?

A This is a look at the left side of the neck, and I think I spoke a few minutes ago about the stab wounds and I said there was one behind the right ear. It's my mistake. It's behind the left ear.

Q And that picture is State's Proposed Exhibit 38 --

A 38.

Q -- depicts that stab wound?

A This is just nothing more than a knick in the skin. Not a deep injury, not a major injury. Just a little mark here in between the arms of the

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ruler.

Q Showing you what has been marked and admitted as State's Exhibit 39.

Can you explain for us what this is a picture of?

A This is a picture looking basically at the lady's forehead. Centered between the arms of the ruler we have that large scraping injury, and some scrapes up above and then we have a bruise occupying a good share of the middle of the forehead. Some other little very minor abrasions high up near the hairline. But basically this just gives you the whole left side of the forehead here.

Q And that big bruise on the forehead, that almost looks like it almost covers the forehead, what could that have been caused by?

A This again is blunt trauma injury. Something hit the forehead or the forehead hit something.

Q Okay. Showing you what has been marked and admitted as State's Exhibit Number 40.

Can you describe for the record and to the jury what this is?

A Number 40 is a photograph which is taken with the camera down, oh, probably lower chest level

1 and shooting kind of upward toward the face. You've
2 got to look at the neck and the chin area. And the
3 basic purpose of it, I believe, is to show this
4 scraping abrasion-type injury that I mentioned at the
5 point of the chin. It also shows several of the
6 stab-type puncture wounds of the neck and chest.
7 Q This injury to the chin, this large red
8 injury, that is not a stab wound then?
9 A No, this is not a stab wound. This is an
10 abrasion, scrape.
11 Q And, again, how would that have been
12 caused or could that have been caused?
13 A Well, something scraped across that skin
14 quite forcefully and typically took layers of it off.
15 Q Again, could that have been consistent
16 with a fist --
17 A It could have been.
18 Q -- or blow?
19 A It's possible.
20 Q Showing you now what's been marked and
21 admitted as State's Exhibit 43.
22 Can you tell us what this is a picture
23 of?
24 A This is a picture of the right, I think,
25 the right upper arm. The right shoulder is in the

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extreme border of the picture, and we have a bruise on the arm. That is really what this picture is showing you, a little bruise back here.

But the large one here is a pretty good sized. I don't think that we have one with a ruler in it, but figuring that she's an average sized lady about five foot five or so you can get a pretty good idea of how big that thing was.

Q That bruise covered her -- almost her entire arm from her shoulder to her elbow?

A No, it's not that big. Make it half of that.

Q Okay. Showing you what's been marked as State's Exhibit Number 44.

What is this a photograph of?

A This is her right forearm. There is an abrasion there just below the elbow. Right about the area that I'm pointing at below the elbow, and you can see some orientation. Her head is up here toward the top of the picture, out of focus, but this is just a fairly superficial scrape.

Q Showing you what has been marked as State's Exhibit Number 45.

What is this a photograph of?

A 45 primarily shows you the bruises to the

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1 right hand and wrist that I think that I mentioned
2 earlier. Right hand is lying across her chest here,
3 and I think that they are fairly obviously and pretty
4 red. Pretty good size bruise here on the back of the
5 hand, one on the wrist. A smaller one on the other
6 side of the wrist.
7 Q And you stated, Doctor, in testimony and
8 even in your report, your autopsy report, that these
9 could be defensive wounds?
10 A They could be, yes. These bruises I
11 would be inclined to call defensive wounds. I think
12 that they are quite legitimate. The scratch that I
13 talked about is more iffy.
14 Q Showing you now what has been marked as
15 State's Exhibit Number 46.
16 What is this a photograph of?
17 A This is a fairly close up. If you did
18 not know where it was, you would have a hard time
19 figuring it out but it happens that I do. This is a
20 little stab wound just beside her umbilicus. The
21 umbilicus is rather faint. The stab wound is the
22 darker spot there. The camera is down pretty close.
23 Q Was that a deep stab wound, Doctor?
24 A It was deep, yes. It went through the
25 peritoneal cavity, abdominal cavity, striking the

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pelvic bone. Actually, it didn't do any real serious damage. It managed to miss everything important.

Q That would not have been a lethal stab wound?

A No, it would not. I would not have considered that a potentially lethal injury.

Q Which ones would have, doctor?

A We have at least three in the neck, which are definitely lethal. We have a couple of them involving the upper airway which are capable of causing death from hemorrhage and bleeding back down into the lungs, but this is not a wound which should have killed her.

Q Showing you what's been marked as State's Proposed Exhibit 47.

What is this a photograph of?

A Okay. 47 shows you the stab wound in the right groinus right above the crease of the groin in between the arms of the ruler there. That one penetrated probably a couple inches basically into fatty tissue.

Again, this one didn't hit any vital structures, no major arteries or veins.

Q Was that a deep wound that one?

A No, about two inches.

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Q Finally, showing you what has been marked for identification purposes as State's Exhibit Number 48.

What is this a picture of?

A Primarily this is the picture of her left knee. It shows some very minor scrapings, some bruising, and on the outside of the kneecap there is an old scar which has nothing to do with what we're talking about today?

Q Thank you, Doctor. If you could resume your seat.

A Thank you.

Q Doctor, based on the autopsy that you conducted did you have an opinion as to the cause of death in this case?

A Yes.

Q And what was that opinion?

A Death was the direct result of the multiple stab wounds involving the neck and chest.

Q And, Doctor, did you have an opinion as to the manner of death in this case?

A Yes, I do.

Q What was that opinion?

A It's my opinion that the death in this particular case was homicidal.

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1 MS. SILVER: Court's indulgence.
2 BY MS. SILVER:
3 Q Doctor, when you say that the manner of
4 death in this case was a homicide, what do you mean by
5 that?
6 A Well, from my particular purposes as a
7 medical examiner, I think of the term homicide as
8 meaning the act, the action by which one person takes
9 the life of another. We do not get into the reasons,
10 the causes, the planning or lack of it or the emotions
11 or anything else. We leave that to our attorneys.
12 I simply am calling this a homicide
13 because clearly she didn't do this herself.
14 Therefore, somebody did it to her, and we have a death
15 resulting.
16 Q And, Doctor, generally in a type of
17 stabbing case such as this, when you're conducting an
18 autopsy, is it common for you to sometimes see stab
19 wounds to the hands or the arms as defensive wounds?
20 A We see in the case of a knife attack
21 sometimes stab wounds, sometimes cutting wounds. I've
22 seen cases where the person actually grabbed the blade
23 and got a nasty cut to the palm of the hand to try to
24 keep from getting hurt worse. These are all defensive
25 wounds. She did not have any cuts or stabs to her

hands or forearms.

Q And, Doctor, I believe earlier in your testimony you said approximately four of these stab wounds went through the neck and actually penetrated the bone of the spinal column?

A Yes, in the front. But you're pointing to the back. They didn't get that far.

Q Okay. Can you show us -- then I'm sorry. Maybe I misheard you. Can you tell us how far that was or explain that?

A The spinal column it's just about in the middle of the neck. If you feel your voice box and then go on back a little bit, that's a little uncomfortable, you run into something pretty solid. That's your spine. So it comes right down the middle here.

So in order for a knife to hit in the midline, or voice box here, to get back to the spinal column we are looking at something between an inch and a half and two inches.

Q What kind of force are we talking about in order to penetrate this type of bone?

A We have four of these that actually penetrated and it disrupted the outer surface of the bone. I don't know how many pounds of energy this

1 takes. It's a forceful injury certainly. It would
2 depend in part on the structure of the knife.
3 If you have got a thin bladed, flexible
4 little kitchen knife that bends easily or do we have
5 something with a little more substance to it. I don't
6 know what we have in this particular case. Regardless
7 of what it was, it certainly takes some force to drive
8 that knife point into the bone and actually disrupt
9 it.
10 MS. SILVER: Court's indulgence.
11 BY MS. SILVER:
12 Q Doctor, I'm showing you what's been
13 marked for identification purposes as State's Proposed
14 Exhibit Number 21. And I would ask you what is that a
15 picture of, or what does it appear to be a picture of?
16 A Well, it is clearly a knife lying on a
17 rug.
18 Q And based on your examination of the body
19 identified to you as Deborah Ann Panos, could this
20 knife, that is depicted in State's Proposed Exhibit
21 Number 21, could this knife have caused the injuries
22 that you have seen here in your examination?
23 A Yes, it could. This is a relatively
24 narrow bladed knife. We don't have a ruler in here
25 for reference. But it's a long slender blade with a

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1 long, sharp point on it, wooden handle.
2 And assuming that the handle is of
3 routine kitchen knife size, it would probably be
4 around four inches long and that would give us a blade
5 just slightly longer.
6 Yes, it's possible for a knife of this
7 type to have been used to create these wounds.
8 Q Doctor, if I were to tell you that that
9 knife was approximately eight and a half inches would
10 you differ in your opinion?
11 A No, because that stills give you a four
12 inch handle and four and a half inch blade.
13 Q Okay. And, Doctor, for lack of a more
14 scientific term, would it be your opinion or would it
15 be fair to say that this woman was beat up prior to
16 her death?
17 A Well, she certainly received a very
18 substantial number of blunt force injuries. The
19 bruises, the scrapes of the face, neck and so on,
20 certainly could very well have been a result of being
21 beaten with fists or some other object.
22 MS. SILVER: Thank you. That would
23 conclude my direct examination.
24 THE COURT: Cross-examination.
25

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1 CROSS EXAMINATION

2 BY MR. BROOKS:

3 Q Dr. Green, I have just a couple questions

4 for you.

5 With regards to the major injuries to the

6 neck and chest, these were major injuries, correct?

7 A Well, they are major enough to kill her.

8 Q Lots of bleeding?

9 A There should have been a very substantial

10 amount of bleeding, yes.

11 Q How long, if you can tell, once those

12 injuries have been inflicted before she dies?

13 A Well, I can't tell you how long a time

14 frame between this wound, Number 1, and Wound Number

15 13. But we have a knife wound coming in here and

16 cutting. Say, our left common carotid artery, that's

17 a big vessel, and it's partner on the right, are what

18 supply blood to the whole head and brain.

19 If we cut one of those, in this case both

20 of them, then our blood supply to the brain has been

21 effectively stopped because blood supply depends on

22 pressure which is generated by the beating of the

23 heart.

24 We make a hole in a large vessel and

25 blood pours out of that and there is no pressure

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1 beyond that to speak of.

2 So given that point in time, the brain

3 has about 14 seconds worth of reserve oxygen supply if

4 no more comes to it. That isn't very much, but that's

5 what we got. So she would be expected to lose

6 consciousness in a matter of 12, 14, 15 seconds from

7 the time either or both of those major arteries have

8 been cut. She will never regain circulation to the

9 brain because she can't. The blood supply has been

10 totally disrupted.

11 At about four minutes from that event,

12 the brain will begin to suffer irreversible cellular

13 damage. If one could restore that blood supply, you

14 probably could bring her back to life if you could do

15 it almost instantly.

16 But given the situation like this,

17 obviously you can't. And let's say by ten minutes

18 post-injury, this brain will never recover no matter

19 what you do. She's dead.

20 MR. BROOKS: Thank you, Doctor. No

21 further questions.

22 THE COURT: All right. Thank you.

23 MS. SILVER: Just one.

24

25

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REDIRECT EXAMINATION

BY MS. SILVER:

Q Doctor, do you have an opinion as to which stab wound was inflicted first or any kind of order as to the stab wounds?

A No, all we can say is that they look as though they are inflicted more or less at about the same time. In other words, they are pretty much contemporaneous, to use a nice long word for it, but which one came first there is no way in the world that I can tell you that.

Q And you don't know whether the stab wound to the abdomen was before the wound or one of the wounds to the neck?

A No, I can't. There is very little bleeding involved in this one in the abdomen. As I say, it didn't hit anything major. Given some antibiotics, it ought to have healed up all by itself if that had been her only injury.

Q So they would not have. So if she was just stabbed here in the abdomen, she could have remained alive?

A Most certainly. If that had been her only injury, yes.

MS. SILVER: Thank you. I don't have any

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further questions.

MR. BROOKS: No further questions, your Honor.

THE COURT: May this witness be discharged?

MR. HARMON: Yes, your Honor.

THE COURT: Thank you. Sir, you may step down.

THE WITNESS: Thank you, sir.

THE COURT: Call your next witness.

MR. HARMON: Dan Peterson.

THE CLERK: Do you solemnly swear the testimony which you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

DANIEL PETERSON,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HARMON:

Q Will you state your name, please.

A My name is Daniel Peterson, P-E-T-E-R-S-O-N.

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Q Mr. Peterson, what is your business or occupation?

A I'm a crime scene analyst with the Las Vegas Metropolitan Police Department.

Q What is a crime scene analyst?

A We respond to crime scenes where we document crime scenes through photographs. We search the crime scenes and identify any items that may have evidentiary value. We do a diagram of crime scenes. We collect, preserve the items that we've identified as possible evidence. We process those items for fingerprints and trace evidence such as hair, blood or other residues.

Q How long have you worked as crime scene analyst with the Las Vegas Metropolitan Police Department?

A Three years.

Q I want to direct your attention to September the 1st, 1995. On that date were you present at the Clark County Morgue and did you witness an autopsy examination performed by Chief Medical Examiner Dr. Sheldon Green upon a victim identified as Deborah Ann Panos?

A Yes.

Q Were you there throughout the autopsy

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1 examination?
2 A Yes, sir, I was.
3 Q Did you take photographs of the victim,
4 Miss Panos?
5 A Yes, I did.
6 MR. HARMON: May I approach the witness,
7 your Honor.
8 THE COURT: Yes.
9 BY MR. HARMON:
10 Q Analyst Peterson, I'm showing you
11 Exhibits 37 through 48.
12 Are those photographs taken by you of the
13 victim, Miss Panos?
14 A Yes, sir, they are.
15 Q Do they truly and accurately depict the
16 appearance and condition of the decedent as you
17 observed her on September the 1st, 1995?
18 A Yes, they do.
19 Q In connection with the autopsy and in
20 addition to the photography work, do you also impound
21 items of evidence which may be relevant to the
22 investigation?
23 A Yes, sir, I do.
24 Q Did you do that in this case regarding
25 the autopsy of Miss Panos conducted September the 1st,

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1995?

A Yes, sir, I did.

Q I'm showing you what the clerk has marked as Proposed Exhibit 62.

Do you recognize that to be a copy of an impound report that you prepared?

A Yes, sir, I do.

Q Analyst Peterson, does proposed Exhibit 62 reflect each item of potential evidence which you recovered?

A Yes, sir, they do.

Q Were all of the items that you have identified recovered from the body of Deborah Panos?

A Yes, they were.

Q Does it include the clothing that she was wearing?

A Yes.

Q Does it also include any samples that were recovered by the medical examiner from cavities of the body?

A Yes, it does.

Q Did the evidence include a sexual assault kit?

A Yes, sir.

Q Is Proposed Exhibit 62 a true and correct

1 copy of your impound report?
2 A Yes, it is.
3 MR. HARMON: Your Honor, the State offers
4 proposed 62.
5 THE COURT: It will be admitted.
6
7 (State's Exhibit 62
admitted into evidence.)
8
9 BY MR. HARMON:
10 Q At the request of the office of the
11 district attorney did you bring a certain item of
12 evidence to court with you this afternoon?
13 A Yes, sir, I did.
14 Q What have you brought to court?
15 A I brought the sexual assault kit that we
16 took at the morgue that day.
17 Q Will you produce that, please. Thank
18 you.
19 MR. HARMON: Your Honor, may we have this
20 item marked as the State's next proposed exhibit.
21 THE COURT: Yes.
22
23 (State's Exhibit 67
marked for identification.)
24
25 MR. HARMON: May I approach the witness

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again, your Honor.

THE COURT: Yes.

BY MR. HARMON:

Q Analyst Peterson, I'm showing you what the clerk has marked as Proposed Exhibit 67.

Is that the box that you have handed to me just a few moments ago, and is that the sexual assault kit that you recovered on September the 1st, 1995, in connection with the autopsy performed upon Deborah Ann Panos?

A Yes, sir, it is.

Q What is a sexual assault kit, sir?

A Sexual assault kit is a sample of -- it's varied samples of biological evidence that we collect such as pulled head hair, pulled pubic hair, combed pubic hair; blood; swabbings from the oral, the vaginal and rectal cavities, and we also put the victim's underwear in the box.

Q Are all of the items that you have just referred to are they all included in the kit which was part of the evidence you collected in connection with Proposed Exhibit 67?

A Yes, sir.

Q You mentioned that among other items it involved blood from the victim?

A Yes, sir.

Q And also samples recovered from the oral and vaginal areas?

A Yes, sir.

Q Did that include the rectal area as well?

A Yes, sir, it did.

Q Did you personally observe these areas being processed and did you see the evidence recovered by the medical examiner?

A Yes, sir, I did.

Q Did you then take possession of all the evidence?

A Yes, sir, I did.

Q Was it placed into the kit that you have before you?

A Yes, sir, it was.

Q Are there various containers inside the box marked Proposed 67?

A Yes, sir. There is paper envelopes with each sample marked on the outside of the envelope as to what is in the envelope, and the blood are in glass vials.

Q Do you follow the same procedure whenever you are collecting a sexual assault evidence collection kit?

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A Yes, sir, I do.

Q Regarding Proposed Exhibit 67, is it in a sealed condition now?

A Yes, sir, it is.

Q When you first recovered it, did you take it then and book it into evidence at the police department?

A Yes, sir, I did.

Q Did you sign the evidence as the booking officer?

A Yes, I did.

Q Do you see your signature still on Proposed Exhibit 67?

A Yes, sir.

Q You still see seals that you placed upon them?

A Yes, sir.

Q Do you see any evidence that the contents of the sexual assault kit have been analyzed after you recovered the evidence?

A Yes, sir, I do.

Q What evidence of that do you observe?

A First, the name on the front of the sexual assault kit is Terry Cook.

Q What name?

8JDC002

A Terry Cook.

Q Who is Terry Cook?

A And he is a criminalist at the Metro police crime lab.

Q One of your colleagues at the police department?

A Yes, sir. And he has placed blue evidence seals on the box whereas I use red evidence seals.

Q Do you have any way of knowing whether contents of the sexual assault kit were also submitted to a DNA laboratory for DNA analysis?

A I have no idea.

Q You were not involved in any procedure along that line?

A No, sir, I wasn't.

Q If that occurred, would it have been the criminalist, Mr. Cook, who was involved in sending the evidence to the laboratory?

A Yes, sir.

Q Except for the additional markings and seals of criminalist Terry Cook, is the sexual assault kit, at least as you see it from the exterior of the box, in substantially the same condition now --

A Yes, sir, it is.

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Q -- as it was on September the 1st, 1995?

A Yes, sir.

MR. HARMON: Your Honor, the State offers Proposed Exhibit 67.

THE COURT: That will be the order. It will be admitted.

MR. BROOKS: That is not being offered right now as an exhibit into evidence?

MR. HARMON: Yes.

MR. BROOKS: Your Honor, for the record since we stipulated to the fact that my client had sex with this woman, we would object to the evidence as being cumulative, prejudicial and unnecessary.

THE COURT: The objection is overruled.

Since that stipulation has been made, there can be no possible prejudice from its admission and the court so finds as a matter of law.

Go ahead.

(State's Exhibit 67 admitted into evidence.)

MR. HARMON: Your Honor, that concludes direct.

MR. BROOKS: No questions, your Honor.

THE COURT: May this witness be

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discharged?

MR. HARMON: Yes, your Honor.

THE COURT: Thank you. You maybe excused.

MR. HARMON: Darren Heiner.

THE CLERK: Do you solemnly swear the testimony which you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

DARREN HEINER,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HARMON:

Q Will you state your name for the record?

A Darren Heiner, H-E-I-N-E-R.

Q Spell your first name, sir?

A D-A-R-R-E-N.

Q Is it Officer Daren Heiner?

A Yes.

Q Where are you employed, Officer Heiner?

A Las Vegas Metro police.

Q How long have you worked with that

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department?

A Ten years.

Q Were you employed with the Las Vegas Metropolitan Police Department on August the 31st, 1995?

A Yes, I was.

Q Were you a patrol officer on that day?

A Yes, I was.

Q Did you have occasion during your shift on that day to be approached by a citizens in the area of Bonanza and Lamb boulevard?

A Yes I did.

Q About what time did that occur?

A It was approximately 3:30 in the afternoon.

Q When you were approached, did you have a conversation with the particular citizen?

A Yes. I was approached by a female who told me her name was Lisa Duran. She stated that she was concerned for the welfare of a woman that she described as her roommate. She stated that she was supposed to meet this roommate, Deborah, at her -- at Deborah's trailer in order to pick up some items that were inside the trailer.

Q Did you get an address for the trailer

the citizen Lisa Duran was referring to?

A Yes, it was the Ballerina Mobile Home Park at 839 North Lamb, Space Number 125.

Q Did you also learn from the citizen that she had a concern for the welfare of her friend, Deborah?

A Yes, I did.

Q Did she tell you anything about observing the woman's vehicle?

A Yes. She stated that they were planning on meeting at about 1:30 at the trailer in order to pick up some items out of the trailer that were in there that belonged to Lisa. She stated that as she was pulling up to the trailer she noticed Deborah's boyfriend, who she knew only as James, driving away in Deborah's vehicle.

Q As a result of the entirety of the information relayed to you by Lisa Duran, did you have occasion to go with her and anyone else in her party to the Ballerina Mobile Home Park, specifically to Space 125, at 839 North Lamb Boulevard?

A Yes, myself and Officer Russ Lee responded over there with Lisa and her brother, John.

Q Did you and Officer Lee arrive at approximately the same time?

A Yes, we did.

Q Would you estimate the approximate time of your arrival at the location of 839 North Lamb Boulevard, Space Number 125?

A It would have to have been approximately 3:45 in the afternoon.

Q Is the location of that particular mobile home in Las Vegas, Clark County, State of Nevada?

A Yes, it is.

Q Tell us what happened after you arrived?

A When we got to the trailer, myself and Officer Lee began knocking on the door announcing ourselves as police and calling out Deborah's name in order to get a response from inside the trailer, and we didn't get a response. We then continued to knock on windows and doors announcing ourselves again as police calling toward to Deborah with no response.

Q Did you knock on all of the exterior doors?

A Exterior doors and most of the windows, yes.

Q Did you attempt at any time to check the exterior doors to see if they were open?

A Yes, we did. They were all locked and secured.

Q You mentioned also you checked windows. Were any of the windows broken?

A None of the windows were broken.

Q You didn't see any broken glass?

A No.

Q Did you see anything unusual regarding any window?

A One of the windows on the west -- northwest part of the trailer, the screen was removed from that window and another window on the front, which had been facing south, the window was partially ajar. It was a window that slid from the bottom towards the top, and it was partially ajar at the bottom.

Q When you say partially ajar, about what was the space?

A I would estimate at maybe one to two inches.

Q As a result of the inability to get any response from someone inside and because of the observations regarding the two windows that you have referred to, was further action taken?

A Yes, it was.

Q Tell us what that was?

A We determined that in order to check the

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1 welfare of the people inside the trailer that we
2 needed to make entry and check on the status of their
3 welfare.
4 Q When you say we, are you talking about
5 yourself and Officer Russ Lee?
6 A Yes.
7 Q Tell us what happened?
8 A We went to the -- myself and Officer Lee
9 went to the window that was partially open that was
10 the front window facing south. Officer Lee began to
11 push the window up. And as it went up the tracks, it
12 came loose from the window track and came out of the
13 actual window frame. He removed the window and put it
14 on the ground.
15 Q At that point, could you see inside the
16 window?
17 A We could see inside the bedroom in the
18 window. It was the window to a bedroom. We could see
19 inside the bedroom.
20 Q Now, I recall you have mentioned that
21 this slider portion of the window that ended up coming
22 out, you say it was set on the ground, originally it
23 had been ajar --
24 A Yes, it had.
25 Q -- an inch or two?

A Approximately.

Q Did it slide up or down or horizontally?

A It was a vertical up and down.

Q Was there a screen on the outside of that particular window?

A The screen to that window was actually inside the trailer. There was no screen on the outside. It was actually inside the room inside the trailer. It was not on the window.

Q So when the window came out, you could see where the screen was?

A Correct.

Q Where in relationship to the window was it on the inside of the trailer?

A Inside the trailer, inside the bedroom.

Q Right next to the window?

A It was in close proximity to the window. I don't remember exactly where it was, but I remember seeing it close to the window.

Q As a result of observing the window first ajar and then finding the screen inside, did you form any type of opinion about a possible point of entry?

A We felt that there may have been somebody that entered the trailer at that point.

Q Through that particular window?

A Through that particular window.

Q Did either you or Officer Lee then go into the mobile home?

A Yes. Officer Lee, I assisted him through the window. And he was going to enter and go to the front door and open it so we could continue to check the trailer together.

Q Did he go in through the same window you have been describing?

A Yes.

Q Which was on the front?

A Yes, he did.

Q I'm showing you, Officer Heiner, Proposed Exhibits 1, 4 and 5. I believe that you had said that one and four are outside photographs of a mobile home.

Do you recognize what is shown in them?

A Yes, I do.

Q Is this 839 North Lamb Boulevard, Space Number 125?

A Yes, it is.

Q There is a window which has been circled in Photograph Number 1?

A Yes.

Q Is that the photograph that -- is that the window that you have been talking about --

A Yes, it is.

Q -- where you said the slider portion of the window was ajar?

A Correct.

Q Is that the same window that Officer Lee entered?

A Yes, it is.

Q Is it also depicted in the other photograph after the window had been taken out --

A Yes.

Q -- in Proposed 4?

A Yes, it is.

Q I'm showing you now Proposed Exhibit Number 5.

Does that appear to be the same window only it is a photograph taken from the inside of the mobile home?

A Yes, it does.

Q When you assisted Officer Lee in entering the trailer, did you have any type of understanding with him what he would do when he got inside?

A Yes, he was going to go to the front door, unlock it, and open it so I could enter and check the rest of the trailer with him.

Q Did you ever end up going inside the

trailer?

A No, I did not.

Q Why is that?

A As Officer Lee got to the front door, he opened it, stepped outside, and stated that Deborah appeared to be dead inside and it looked to be a homicide.

Q Did he tell you where she was inside the trailer?

A He stated that she was just inside the front door.

Q Now, as a result of that information, did that effect whether you would go into the residence?

A Yes, it would.

Q Why?

A I did not enter in order to not disturb the crime scene if, in fact, it was a crime.

Q Once it became a possible crime scene, did you have a concern about preserving the integrity of the scene --

A Yes, I did.

Q -- about maintaining the condition exactly as it was when you arrived?

A Correct.

Q How long did you remain at the scene

after the body was discovered?

A We were there approximately three hours.

Q Was there a call sent out for back up?

A There was a call sent to dispatch for medical personnel, detectives, and the identification technicians to respond.

Q Did some medical personnel, a paramedic, arrive who confirmed that the victim was deceased?

A Yes, the paramedic unit arrived. We had one of the paramedics enter the trailer. He went in and immediately came back out.

Q And was it confirmed by the paramedic that she was dead?

A Yes.

Q With the exception of the paramedic, once the body had been discovered and it was believed a crime had occurred, was anyone else permitted to go in except police personnel involved in carrying out the homicide investigation?

A No.

Q You have mentioned that originally the citizen, Lisa Duran, said that she saw the victim's car being driven away by her boyfriend, James?

A Correct.

Q Did you determine as part of your

1 investigative effort what James' full name was?
2 A Yes, we did.
3 Q What was his last name?
4 A Chappell. I'm not sure exactly the
5 pronunciation.
6 Q C-H-A-P-P-E-L-L?
7 A Yes.
8 Q Did you also determine the date of birth
9 of James Chappell?
10 A Yes, we did.
11 Q What was the date of birth?
12 A I don't recall.
13 Q Do you have an officer's report?
14 A I don't have it with me, but --
15 MR. HARMON: May we have the court's
16 indulgence, your Honor.
17 THE COURT: Yes.
18 BY MR. HARMON:
19 Q If you refer to the officer's report,
20 will that assist you in refreshing your memory --
21 A Yes.
22 Q -- regarding the information that you
23 acquired as to the date of birth of James Chappell?
24 A Yes, it would.
25 MR. HARMON: May I approach the witness,

your Honor.

BY MR. HARMON:

Q It's a four page document. Is that your officer's report, Officer Heiner?

A Yes, it is.

Q Will you refer to the report and then tell us if by looking at the report you're able to refresh your memory?

A Yes, I am. On page three at the bottom I list James Chappell's birth date.

Q Just his birth date?

A Birthday as 12/27 of '69.

Q December the 27th, 1969?

A Yes.

MR. HARMON: Thank you. That concludes direct, your Honor.

THE COURT: Thank you. Cross.

MR. BROOKS: Officer, I have several questions for you.

CROSS EXAMINATION

BY MR. BROOKS:

Q When you first encountered Lisa Duran, where were you?

A We were at the Carpenter's Union Hall.

1 It's in the area of Bonanza and Lamb.
2 Q Were you in a car by yourself or was
3 Officer Lee with you in your car?
4 A I was in a car by myself.
5 Q Did Officer Lee have his own car?
6 A Yes, he did.
7 Q When you were first encountered, were you
8 with Officer Lee?
9 A No, I was by myself. She approached me.
10 She gave me the information. I radioed for another
11 unit to help me at the trailer, and he arrived over
12 there with me.
13 Q Why did you radio for another unit to
14 help you?
15 A It's standard police procedure if you're
16 going to go to a suspicious circumstances-type call,
17 if you're going to check a residence, to have two
18 officers there.
19 Q So it was standard procedure?
20 A Correct.
21 Q And it had nothing at all to do with the
22 identity of any particular dangerous person involved
23 in this?
24 A We didn't know what we were going to at
25 the time.

Q When you arrived there at the trailer, when did you talk to Lisa Duran and find out about the name James Chappell?

A To me she only identified him as James.

Q How did you found out his last name?

A We checked with the park manager. We checked with the day care where the children were kept, and we also checked with our records, police records.

Q And by that time, other police units were already on the scene?

A Yes.

Q So no other police units ever came to the scene because James Chappell was some dangerous person, they came as a matter of routine?

A Yes.

Q Did Miss Duran tell you about a temporary restraining order being out against Mr. Chappell or against anyone else?

A She stated that she thought that there was one on file, which we were able to find.

Q And did she also say that Deborah Panos had testified against James Chappell the day before?

A Yes, she did.

MR. BROOKS: Thank you. Pass the

witness.

MR. HARMON: Nothing further, Judge.

THE COURT: All right. Thank you officer. You may step down.

THE COURT: Ladies and gentlemen of the jury, is everybody comfortable? Let's take a seventh inning stretch while we call the next witness in. You can stand up.

MR. HARMON: Russell Lee.

THE CLERK: Do you solemnly swear the testimony which you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

RUSSELL LEE,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HARMON:

Q State your name for the record?

A Russell Lee.

Q Will you spell your last name?

A L-E-E.

Q Is it Officer Russell Lee?

A Yes.

Q Officer Lee, where are you employed?

A Metropolitan Police Department.

Q How long have you worked with that department?

A Almost ten years.

Q Were you employed with the Metropolitan Police Department on August the 31st, 1995?

A Yes, I was.

Q On that day did you have occasion to go basically simultaneously with Officer Darren Heiner to the Ballerina Mobile Home Park specifically to the trailer at Space 125, 839 North Lamb Boulevard?

A Yes, I did.

Q Did you arrive at about 3:45 p.m. that afternoon?

A Yes.

Q What was your purpose in going there?

A I was on patrol and I heard Officer Heiner state that he was contacted by some citizens who had a domestic situation at that mobile home park. He asked for another unit to go with him.

I was listening to my radio, and I was near the area and I told him I would go with him. I advised the dispatcher that I would go with him. And

as we were driving down towards the mobile home park, I just got in behind him and I followed him in.

Q Were you accompanied to the location by certain citizens who had reported a concern for an acquaintance?

A Yes, we were led there by the citizens that contacted Officer Heiner.

Q When you arrived, did you eventually go into the mobile home, Space 125?

A Yes, I did.

Q How did you get in?

A There is a front. On the street side of the mobile home is the front of the mobile home. There is a window that was there. It was the kind that you raise up. As it was partially up just a little bit, I took my key to my patrol vehicle, raised it up where I could start pushing it up.

As I pushed it up, the window fell in and I caught it, took it out and set it on the ground and then Officer Heiner boosted me in through that window.

Q Did you have a definite interest at that point in getting inside the trailer?

A Yes, from what we were told, there was a domestic situation going on for some period of time, and the person who stopped Officer Heiner felt that

the person who lived at the mobile home would be in danger or was in danger from her ex-boyfriend.

Q Had you tried doors and checked other windows in an effort to get in by some other means?

A We tried all the doors and all the windows, and there was a window in the back door that is in the carport side, which is the back of the mobile home, it was open a little bit. But it had a lock that kept it from going any higher than that. We tried all the other windows, and that's the only one that we could get in.

Q Were all the windows intact? Were any windows broken?

A They were all intact. Nothing was broken.

Q So I take it from what you had started to tell us you decided that this window which was ajar just a little bit was the best means of gaining entrance?

A Without breaking a window it was the best.

Q And as you were pushing it up, it came out?

A It started to fall inside the trailer.

Q So you set it on the ground and then you

1 got help and went inside?
2 A Yes.
3 Q As you were going inside, did you see a
4 screen?
5 A Yes. Right below the window is like a
6 small night stand. As I got boosted up toward the
7 window, the screen was kind of stuck. It looked like
8 it was stuck between it and the bed, but what it was
9 actually was the nightstand was sitting on top of the
10 screen and the screen was bent up by the bed.
11 Q Did seeing the screen inside of the
12 window and also combining that with your observation
13 that the outside window, the slider portion had been
14 slightly ajar, did that cause you to form any opinion
15 about a possible point of entry, assuming someone had
16 gone inside?
17 A It looked like that was the only other
18 way. All the other windows that were there still had
19 screens on the outside also. The only one that any
20 one could have gone in was that window, recently
21 anyway.
22 Q Did you conclude that that was a possible
23 point of entry?
24 A Yes.
25 Q Was that, in fact, the point in which you

went in?

A That's the way that I went in, yes.

Q Except for having the window fall out into your hands and sitting it down, did you change the condition of either the outside or inside of Space 125 of 839 North Lamb Boulevard in any way that afternoon, August the 31st?

A The only other things that I did was open the bedroom door that went into the living room area, and then I opened and closed the front door of the mobile home.

Q After you got inside, tell us what you did?

A We were looking for someone who might be injured in the mobile home is what we understood. I entered the bedroom. I looked around in there. It was disheveled. The bed wasn't made or anything, and there was things laying around. I noticed off to my left-hand side was a large bathroom. I just checked in there real quick, made sure that no one was laying inside there.

I opened the bedroom door, opened the door into the living room. When I opened the door and walked into the living room, I saw a white female laying on the ground on her back near the front door.

Q How close did you get to her?

A I had to step over her to open the door.

Q How close would you estimate the white female lying on the floor was to the front door?

A Not very far. When we opened the door, the door bumped her legs.

Q How was she lying?

A Lying on her back. Her arms were kind of spread out.

Q What do you mean kind of spread out?

A They weren't like straight out, but they were out towards the side.

Q Basically, in the manner that you were demonstrating?

A Yes. Yeah, out to her side.

Q Did you see evidence of injury to the person?

A Yes. Her eyes were partially open. She had blood in her hair. As I was stepping over her, I looked at her body and she had like nylon pants on or something like that, and it had like a --

Q Some kind of stretch pants?

A Yes, it had a small tear and had what looked like meat hanging out of the tear right here like it was a stab wound, or I thought that it was a

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bullet hole at that time.

Q Did you touch the victim at any time --

A No.

Q -- while you were inside the trailer?

A No, I personally never touched her.

Q Did you observe her though in an effort to determine if you could detect vital signs?

A Yes. I went outside and advised my sergeant what I saw inside, and I told him I needed to go back in and make sure that she was not breathing, make sure that something wasn't going on. I went back inside. Her shirt was kind of pulled up about to the bottom of her rib cage, and I was looking in the area for maybe a heartbeat or to see if she was breathing.

Q Did you detect any sign of life?

A No.

Q In your opinion, based upon what you saw, was she deceased?

A Yes. Her eyes were a little bit cloudy. They were partially open. They weren't moving, and she wasn't breathing.

Q Did you know personally Deborah Ann Panos?

A Pardon me?

Q Did you know her personally?

A No.

Q Had you ever been to this location prior to August the 31st, 1995?

A No.

Q Did you know her boyfriend or former boyfriend James Chappell?

A No.

Q Except for the doors that you opened, and of course you've already described the slider portion of the window coming out when you gained entry, did you change substantially anything else about the condition of the crime scene?

A No. When I exited, I didn't touch anything else in the trailer. And when I exited, I didn't allow anyone else in.

Q Did you think it was a crime when you saw where the victim was and observed what her condition was?

A Yes.

Q Did you think that was a homicide?

A Yes, I advised my sergeant that I believed that I had a homicide scene inside.

Q Is that Sergeant Yada?

A Yada.

Q Y-A-D-A?

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A Yes, sir.

Q As a result of your conclusion, were other officers in the department notified?

A Yes. The homicide detectives were notified.

Q Did homicide detectives subsequently arrive while you were still there at the location?

A Yes, they did.

Q Would that have been Detective Ramos and Vaccaro?

A Yes.

Q Did crime scene analysts also respond from the crime lab of the police department?

A Yes, sir.

Q When you were making your walk through of the trailer, and either shortly before or at the time you discovered the victim, did you see any type of weapon in the area of the body?

A I didn't really think about that at the time. But I had saw a knife laying somewhere around her body. I can't tell you exactly where it was. I saw it, but I didn't pay any attention to it. I just wanted to get out of the trailer so I wouldn't contaminate the crime scene.

Q Once you saw the body were you focused on

anything else in the trailer?

A No.

Q Would it have been your role to have carried out any further investigation regarding a possible homicide?

A No.

Q That would be left up to other police officers; is that correct?

A Correct.

MR. HARMON: That concludes direct, your Honor.

THE COURT: Cross.

CROSS EXAMINATION

BY MR. BROOKS:

Q Officer, when you arrived there was just yourself and Officer Heiner with Lisa Duran and people with her; is that correct?

A Yes.

Q When you arrived there, you proceeded to look all around the trailer?

A Yes.

Q This is the trailer at Space 125?

A Yes.

Q You eventually determined that the window

1 towards the road was the point of entry, correct?
2 A I believe it was.
3 Q And when I say the road, where you drove
4 your patrol car up?
5 A Yes.
6 Q Did you notice that there were windows on
7 the opposite end of the trailer?
8 A Yes.
9 Q And you also noticed that there were
10 trailers along the sides of the trailer?
11 A Yes.
12 Q Would you say that the windows that were
13 on the opposite end of the trailer away from the road
14 were more concealed than the windows that were out
15 there on the street?
16 A Yes.
17 Q Would you say that the windows that were
18 on the side of the trailer were more concealed than
19 the windows right there on the street?
20 A Yes.
21 Q It would be fair to say that the window
22 that was the point of entry was the least concealed of
23 all the windows in terms of viewing it from the road;
24 isn't that right?
25 A Yes.

Q As far as when you got there and calling Officer Yada, was that done as a matter of course or was there some special reason?

A We didn't call him. He just arrived.

Q He just arrived?

A He listened to his radio and he arrived also.

Q Any situation involving possible domestic violence or violence is generally a situation where you require a backup; is that right?

A Yes.

Q And you would generally have two officers go?

A Yes. When Officer Heiner asked for another unit, I was the one that volunteered to go with him.

MR. BROOKS: Thank you. No further questions, your Honor.

MR. HARMON: Very briefly on redirect, your Honor.

REDIRECT EXAMINATION

BY MR. HARMON:

Q Officer Lee, you have been asked a number of questions about the proximity of the window which

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you believed to be the point of entry to the road?

A Yes.

Q And it's true that was one of the windows closest to the road?

A Yes.

Q Is it also true, however, that you tried to get in through other windows and you couldn't?

A We tried all the windows and all the doors. That's the only one that was ajar a little bit. We had no way of gaining entry into it other than breaking a window or breaking a door.

MR. HARMON: Thank you. That's all.

RECROSS EXAMINATION

BY MR. BROOKS:

Q And, Officer, obviously you don't know exactly why it was ajar, correct?

A No, I don't.

MR. BROOKS: No further questions.

THE COURT: May this witness be discharged?

MR. HARMON: Yes, your Honor.

THE COURT: Thank you, Officer. You may step down.

Call your next witness.

MR. HARMON: Michael Perkins.

THE CLERK: Do you solemnly swear the testimony which you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE COURT: We will take a brief recess right now.

During the recess it's your duty not to converse among yourselves or with anyone else on any subjected with the trial or read, watch or listen to any report of or commentary on this trial or any person connected with this trial including, without limitation, newspapers, television or radio;

And you are not to form or express an opinion on any subject connected with this case until it's finally submitted to you.

This will be the last witness of the day. We're going to take about five minutes. Please remain on the upper deck of the courthouse. We'll be at ease while you depart the confines of the courtroom.

(Recess.)

MICHAEL PERKINS,

having been first duly sworn, testified as follows:

THE COURT: Counsel stipulate to the presence of the jury.

MR. BROOKS: Yes, your Honor.

MR. HARMON: Yes.

THE COURT: May we proceed in the absence of Miss Silver?

MR. HARMON: She is taking care of another matter. She'll join us in a few minutes.

DIRECT EXAMINATION

BY MR. HARMON:

Q Will you state your name for the record?

A My name is Michael Perkins.

Q Please spell your last name?

A P-E-R-K-I-N-S.

Q What is your business or occupation?

A I'm employed by the Las Vegas Metropolitan Police Department as a crime scene analyst supervisor.

Q How long have you worked with the Las Vegas Metropolitan Police Department out of the crime lab?

A About five years and a month.

Q Analyst Perkins, on August the 31st, 1995, did you have occasion as a senior crime scene analyst to respond to the Ballerina Mobile Home Park at 839 North Lamb Boulevard, specifically Space 125?

A Yes, I did.

Q About what time on August the 31st did you arrive at that location?

A I arrived at about seven minutes before five o'clock in the evening.

Q What was your purpose for going to the scene?

A I had been requested to respond there reference a dead body that was found at that location.

Q Were you to be involved in carrying out investigation on behalf of the crime lab?

A Yes, I was. That would involve photography, fingerprinting, collection of evidence, doing a diagram as well as making notes of the scene.

Q Were you assisted by any other crime scene analyst from the police department?

A Yes, I was.

Q Who else?

A That was crime scene analyst Mark Washington.

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Q Did you and Analyst Washington work together in performing the investigation carried out at the Ballerina Mobile Home Park?

A Yes, we did.

Q Now, you referred to photographs. Were photographs taken both of the outside and interior of the Space 125?

A Yes, they were.

MR. HARMON: May I have the court's indulgence. May I approach the witness, Judge.

BY MR. HARMON:

Q Analyst Perkins, I'm going to show you quite a long list of photographs that were marked as State's Proposed Exhibits 1 through 36.

Will you go as quickly as you can through the photographs. And after you have looked at all of the pictures, will you tell us if you recognize what is shown in the photographs that make up this series.

A Yes, I do recognize these.

Q What's the basis of your recognition, Analyst Perkins?

A I recognize these photos as being taken on August 31st because these were all photographs that I took myself.

Q Do these photographs in the series,

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1 Proposed Exhibits 1 through 36, truly and accurately
2 depict the condition of both the outside and inside of
3 839 North Lamb Boulevard, Space 125 as you observed
4 that condition to be at the time of your arrival on
5 August the 31st, 1995?
6 A Yes, they do.
7 Q All of the photographs are true and
8 accurate?
9 A Yes, they are.
10 MR. HARMON: Your Honor, the State offers
11 Proposed Exhibits 1 through 36.
12 MR. BROOKS: The State is moving to admit
13 these, your Honor?
14 THE COURT: Yes.
15 MR. BROOKS: Your Honor, I would object
16 to Photograph Number 25 which is a particularly
17 gruesome photograph, and I think that it's highly
18 prejudicial. We have the information from that
19 photograph and other photographs as well.
20 THE COURT: Objection is overruled. The
21 court has made its own review of all of the
22 post-mortem photographs and the photographs at the
23 crime scene and has concluded that all of the proposed
24 exhibits have probative value that outweigh the
25 prejudicial effect by what they depict, and that they